

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.5747 of 2011

ORDER :

This Civil Revision Petition is filed by the petitioners/ Decree Holders, aggrieved by the order dated 13.11.2017 in E.P.No.225 of 2004 in O.S.No.27 of 1997 passed by the I Additional Junior Civil Judge, Eluru.

Heard the learned counsel for the revision petitioners/ Decree Holders and the learned counsel for respondent Nos.6 to 8. Respondents 1 to 5 are endorsed as not necessary parties.

The revision petitioners are the Decree Holders (for short 'D.Hr.') in O.S.No.27 of 1997 decree dated 15.03.2000 in favour of them against 8 defendants in the suit for declaration of title and consequential prohibitory injunction against them, their men, agents and representatives from interfering in any manner from the plaintiffs' right, possession and enjoyment of the 'A' and 'B' schedule properties respectively. The operative portion of the said decree reads as follows:

- "i) that the plaintiffs be and hereby declared as absolute owners of A schedule property;
- ii) that the defendants 3 to 8 be and hereby restrained by way of consequential injunction from interfering with the possession and enjoyment of the plaintiffs of the A-schedule property;
- iii) that the defendants 3 to 8, their men and agents be and hereby restrained by way of permanent injunction from ever interfering with the possession and enjoyment of the plaintiffs of the B-schedule property.

iv) that the defendants 3 to 8 do pay to the plaintiff a sum of Rs.2704/ towards costs of the suit, bearing their own costs of Rs.Nil.”

The plaint A-schedule property concerned of Eluru sub-registration, Eluru Municipal town of West Godavari District, an extent of 53 $\frac{3}{4}$ Sq.yards of site in T.S.No.1015/2 within the boundaries described therein and the plaint B-schedule property consists of vacant sites in T.S.Nos.1018/ 11 part, 1018/ 6, 1918/ 3 part, 1018/ 7 part , total 155 Sq.yards of site with bath room, latrine, coconut tree, other plants and well therein, which is shown as blue in colour in the plaint plan and described as S, S1, S2, S3, S4, S5, S6 and S7 within the boundaries specified therein.

Pursuant to the decree, for the alleged violation of the executable decree insofar as permanent prohibitory injunction concerned, the D.Hr. against 8 Judgment Debtors (for short ‘J.Drs.’) filed execution petition under Order XXI Rule 32 C.P.C. with the averments of the J.Drs. 6 to 8 are willfully dis-obeyed the decree and made high-handed and illegal attempts to occupy ‘A’ and ‘B’ schedule properties and they are trying to put up a Dhajasthambham in the said property.

From perusal, it shows to the east of the temple, ‘A’ and ‘B’ schedule properties are lying and the proposed Dhajasthambham is to construct towards east of the temple. The observations in the impugned dismissal order of the lower Court of the E.P. mainly are that there is nothing to show violation by interference with the possession and enjoyment, but for, if at all any proposed writing putting at the temple about Dhajasthambham proposed to be constructed towards on

the eastern side of the temple, without mentioning the description of the plaint and decree 'A' and 'B' schedule properties, thereby, there is no violation.

Having regard to the above, there is nothing to interfere with the impugned dismissal order, but for, petitioners are also entitled by virtue of this order from the settled expression including from the expression in un-numbered C.R.P.(S.R.)No.19487 of 2014 and C.R.P.M.P.No.4657 of 2014 dated 19.10.2016 and from the expression in C.R.P.No.4737 of 2016 dated 13.12.2016 of any decree or order of the Court including an ex parte decree of injunction order granting in favour of the plaintiff against any of the defendants, the plaintiff/decree holder is entitled besides execution, police aid if any for the police to protect the said possession and enjoyment covered by the decree in favour of the plaintiffs.

Accordingly, the Civil Revision Petition is disposed of. No order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:31-10-2017

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