

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.1927 OF 2015

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dated 25.03.2015 passed in I.A.No.785 of 2014 in O.S.No.114 of 2014 on the file of the Court of the Principal Junior Civil Judge, Avanigadda.

2. The contention of the learned counsel for the petitioner is three fold: (1) the trial Court erroneously granted police aid in favour of the respondent even though the petitioner is in possession of the suit schedule property; (2) the order passed by the trial Court is not sustainable either on facts or in law; and (3) the petitioner's previous counsel in the trial Court colluded with other side.

3. *Per contra*, the learned counsel for the respondent submitted that the trial Court granted police aid taking into consideration the order dated 10.09.2014 in I.A.No.441 of 2014. He further submitted that there is no illegality or irregularity in the order of the trial Court, which warrants interference of this Court.

4. A perusal of the record reveals that the respondent herein filed O.S.No.114 of 2014 on the file of the Court of the Principal Junior Civil Judge, Avanigadda, against the petitioner for perpetual injunction in respect of the suit schedule property. Along with the suit, the respondent filed I.A.No.441 of 2014 seeking ad-interim injunction. The trial Court granted ad-interim injunction in favour of the respondent on 06.08.2014 and the

same was made absolute on 10.09.2014. For one reason or other, the petitioner herein did not contest I.A.No.441 of 2014. The respondent filed I.A.No.785 of 2014 in O.S.No.114 of 2014 seeking police aid and the same was allowed on 25.03.2015. Hence, the revision.

5. Whether the petitioner's previous counsel in the trial Court colluded with the respondent herein or not has to be decided at the time of hearing of the main suit. For the reasons best known, the petitioner remained *ex-parte* in I.A.No.441 of 2014. A perusal of the record further reveals that the petitioner herein filed I.A.No.1644 of 2016 to set aside the *ex-parte* order dated 10.09.2014 in I.A.No.441 of 2014 and the same is pending.

6. Learned counsel for the petitioner strenuously submitted that the petitioner has been in possession and enjoyment of the suit schedule property and taking advantage of the police aid, the respondent is trying to dispossess him.

7. The trial Court granted ad-interim injunction in favour of the respondent on 06.08.2014 and the same was made absolute on 10.09.2014 and in such circumstances, the contention of the learned counsel for the petitioner that the petitioner has been in possession and enjoyment of the suit schedule property is not sustainable. Unless and until the order dated 10.09.2014 is modified by the same Court or set aside by the appellate Court, the same will be in force.

8. Learned counsel for the respondent submitted that in spite of the Court orders, the petitioner herein is making hectic efforts to

dispossess the respondent; therefore, she filed police aid petition. The respondent is aged about 70 years. So long as the order in I.A.No.441 of 2014 is in force, the respondent is entitled to enjoy the suit schedule property without interference of anybody including the petitioner and therefore, she is entitled for police aid. The trial Court considered various aspects in right perspective and granted police aid. If the revision is allowed, it may cause untold hardship to the respondent in whose favour ad-interim injunction was granted. The only remedy available to the petitioner is to take appropriate steps before the trial Court either for disposal of I.A.No.1644 of 2016 or main suit. There is no irregularity or illegality in the order passed by the trial Court, which warrants interference of this Court. Hence, the revision lacks merits and *bona fides*.

9. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

10. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 24.01.2017

Ivd