

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.5926 of 2016

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the Order dt. 03.11.2016 in C.M.A.No.15 of 2013 passed by VI Additional District Judge at Siddipet, whereby the Order passed by Senior Civil Judge, Siddipet in I.A.No.741 of 2012 in O.S.No.214 of 2012 was set aside on the ground that the petitioners failed to produce any document to substantiate their contention that their predecessors in title i.e., their vendors, have got title and possession over the property till they sold the property.

It is the specific case of the petitioners that they purchased the property under Ex.A.1--registered sale deed and later obtained pattadar passbooks and title deeds under Ex.A.2 to A.5 and since then they are in possession and enjoyment of the property. They obtained pattadar passbook bearing No. 1141, which is marked as Ex.A.2 before the trial Court, and also mutation proceedings bearing No. B/853/06 dt. 10.05.2016. All these documents shows that the petitioners are in possession and enjoyment of the property. Therefore, the petitioners filed the main suit for grant of perpetual injunction and filed interlocutory application under Section XXXIX Rules 1 and 2 of CPC for grant of temporary injunction during pendency of the main suit.

Curiously, the Senior Civil Judge, Siddipet, passed an cryptic order in I.A.No.741 of 2012 in O.S.No.214 of 2012, referring the documents filed by both parties i.e., Exs. A.1 to A.9 and Exs. B.1 to B.4 and concluded in para No.10 as follows:

“ For the foregoing reasons, this Court holds that the petitioners basing on the documents filed by them, succeeded to prove their rights and possession over the suit schedule land, for which, the petitioners are entitled to seek temporary injunction. Therefore, the petition has to be allowed.

In the result, petition is allowed. Ad interim injunction granted on 07.12.2012 is made absolute. No costs”.

The Order passed by Senior Civil Judge was assailed before VI Additional District Judge, Siddipet and the learned VI Additional District Judge, Siddipet, passed an order holding that the petitioners failed to prove *prima facie* case and concluded that balance of conveyance is also not in favour of the petitioners and thereby the question of sustaining loss would not arise since the petitioners failed to establish the title and possession over the suit schedule property by their predecessors in title i.e., vendors. The said finding is assailed now before this Court in a Petition filed under Article 227 of the Constitution of India on various grounds and more particularly, based on Exs. A.1 to A.5, which were also considered by the trial Court and the appellate Court.

After considering the entire material, the appellate Court reversed the Order of the trial Court on the ground that the trial Court did not even consider any of the requirements, which are *sine quana* for grant of temporary injunction by exercising power

under Order XXXIX Rules 1 and 2 CPC and held that the petitioners failed to establish *prima facie case, balance of convenience and irreparable injury and reversed the order passed by the Senior Civil Judge.*

Along with the present petition, the petitioners produced pattadar passbook of their predecessors in title and mutation proceedings dt. 10.05.2006 bearing No. B-D/853/2016. But, receiving additional documents in a petition filed under Article 227 of the Constitution is doubtful. However, the provisions of Order 41 Rule 27 CPC has no application to a petition filed under Article 227 of the Constitution, but it is applicable to Civil Miscellaneous Appeals. Moreover, no separate petition is filed to receive those documents as additional evidence, except filing the present petition under Article 227 of the Constitution. Therefore, those two documents cannot be looked into for any purpose, while exercising supervisory power under Article 227 of Constitution.

The jurisdiction of this Court under Article 227 of the Constitution is limited and it is supervisory in nature, hence, this Court cannot set aside the order passed by the Tribunal or Subordinate Courts unless exercised power beyond its jurisdiction or crossing its boundaries. It means that the duty of this Court is to see that Subordinate courts and the trial Courts shall not cross their limits while exercising jurisdiction conferred on those Courts. But, here nothing has been pointed out that the appellate Court exceeded its jurisdiction or exercised jurisdiction

which is not conferred on it, but pointed out that the documents were not considered.

The scope of jurisdiction of this Court under Article 227 of the Constitution of India is considered by the Apex Court in *State, through Special Cell, New Delhi v. Navjot Sandhu @ Afshan Guru and others (2003) (6) SCC 641*, wherein it was held that the Court, while exercising jurisdiction under Article 227 of the Constitution, can interfere with the orders passed by the Tribunals and Subordinate Courts only in certain circumstances, pointed by me in the earlier paragraph, and even though the Order is wrong, this Court cannot exercise the power under Article 227 of the Constitution of India. Therefore, in view of the limited power under Article 227 of the Constitution, this Court has to consider the legality of the order dt.03-12-2016 passed by the District Judge, Siddipet, in CMA No.15 of 2013, keeping in mind the scope of Article 227 of Constitution of India.

The appellate Court has considered all the documents Exs. A.1 to A.7 but concluded that the petitioners failed to establish the possession and title of their predecessors/vendors. More particularly, when the respondents denying the possession and title of the vendor while contending that they sold the property without any title. But now the petitioners produced two documents, referred to above, but they cannot be looked into in view of the limited jurisdiction conferred on the Court under Article 227 of the Constitution. If those two documents are excluded from consideration, there is no error much less an error

warranting interference of this Court while exercising jurisdiction under Article 227 of the Constitution, in view of the limited scope conferred on this Court, which is supervisory in nature.

Curiously, the trial Court while passing an Order in I.A.No. 741 of 2012 in O.S.No.214 of 2012, did not even consider the elementary principles for granting temporary injunction i.e., *prima facie* case, balance of conveyance and irreparable loss. But passed a slip-shot order referring the documents filed by both parties and recorded a finding, which is required to be pronounced at the termination of the proceedings by the trial Court, which I extracted in the earlier paras. The findings in para No.10 of the Order is a patent error and it is liable to be set aside and the appellant court having considered the scope of under Order XXXIX Rules 1 and 2 of CPC considered the above three requirements for grant of temporary injunction and setaside the order. Therefore, by exercising power under Article 227 of the Constitution, this Court cannot interfere with the impugned Order as the Order under challenge satisfied all the required ingredients for granting temporary injunction. Hence, I find no grounds to set aside the Order passed by the Appellate Court in reversing the order passed by Senior Civil Judge in I.A.No.741 of 2012 in O.S.No.214 of 2012 and therefore, this Civil Revision Petition is liable to be dismissed.

Accordingly, this Civil Revision Petition is dismissed. However, the observations, if any, recorded in the earlier paras, will have no bearing on the disposal of the main suit and the trial

Court is directed to decide the matter uninfluenced by the observations, if any, recorded by this Court in the earlier paras and dispose of the suit as expeditiously as possible but not later than Six months from the date of receipt of a copy of this Court.

As a sequel, miscellaneous petitions, if any, pending in this case, shall stand closed.

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M. SATYANARAYANA MURTHY, J

Date: 07-04-2017.

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HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY



CRP No.5926 of 2016

Dt. 07-04-2017

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