

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.6048 of 2017

10.11.2017

Between:

Nalamarai Apparao (died) and others

..Petitioners

and

Chidireddi Ramu Naidu and others

..Respondents

Counsel for the petitioners: Mr.K.Jyothi Prasad

Counsel for the respondents: --

The Court made the following:



ORDER:

This Civil Revision Petition arises out of order, dated 06.06.2017, in C.M.A.No.1 of 2015 on the file of learned X Additional District Judge, Visakhapatnam at Anakapalle to the extent it has rejected the relief of *ad interim* injunction against respondent Nos.5 and 6.

2. I have heard Mr.K.Jyothi Prasad, learned counsel for the petitioners, and perused the record.

3. The petitioners filed O.S.No.136 of 2013 on the file of learned Principal Senior Civil Judge, Anakapalle, for permanent injunction restraining the respondents from interfering with their peaceful possession and enjoyment of the suit schedule property and other consequential reliefs. Along with the said suit, the petitioners filed I.A.No.387 of 2013 for *ad interim* injunction. While respondent Nos. 1 to 4 remained *ex parte*, respondent Nos.5 and 6 filed a counter-affidavit resisting the injunction application. By order, dated 20.06.2014, the learned Principal Senior Civil Judge, Anakapalle, dismissed the I.A. in *to-to*. Feeling aggrieved by the said dismissal order, the petitioners filed C.M.A.No.1 of 2015. Learned X Additional District Judge, Visakhapatnam at Anakapalle partly allowed the C.M.A. *qua* respondent Nos.1 to 4 and dismissed the same as regards respondent Nos.5 and 6.

4. A perusal of the order under revision shows that the injunction sought against respondent Nos.5 and 6 was declined on the ground that no specific averments have been made against the said respondents. I have carefully perused the averments in the suit as well as in the I.A.,

which disclose that while specific averments have been made against respondent Nos.1 and 2 to the effect that they wrongfully encroached into the property of one Ramulamma, which is situated outside the suit schedule property and that they along with other defendants developed an evil idea of grabbing the plaint schedule property, no specific averments have been made against respondent Nos.5 and 6. In our opinion, unless the plaintiffs establish the elements of *prima facie* case, balance of convenience and irreparable injury against the defendants, they are not entitled to an order of injunction. In the absence of specific allegations of alleged interference by respondent Nos.5 and 6, the petitioners have failed to establish the aforementioned elements. Therefore, the lower appellate Court has rightly rejected the relief of injunction as regards respondent Nos.5 and 6. Hence, I do not find any jurisdictional error in the order of the lower appellate Court warranting interference of this Court.

5. The Civil Revision Petition is, accordingly, dismissed.

6. As a sequel to dismissal of the C.R.P., C.R.P.M.P.No.7813 of 2017 filed by the petitioners for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

10th November, 2017

GHN

