

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 5850 of 2017

ORDER :

The docket order dated 26.07.2017 in I.A.No.218 of 2017 in I.A. No. 315 of 2011 in O.S. No. 48 of 2011 on the file of the Junior Civil Judge's Court at Gooty is impugned in this Revision.

Defendants 1 to 4 in the suit are the petitioners herein. The suit was filed by Respondents 1 to 3 herein seeking partition and separate possession of the suit schedule property. Therein, I.A. No. 315 of 2011 was taken out for grant of temporary injunction restraining the defendants from alienating the schedule property in favour of third parties and the said Application was allowed *vide* order dated 28.12.2011. Seeking police protection for implementation of the said order dated 28.12.2011, the plaintiffs filed I.A.No. 218 of 2017, which was also allowed directing the police to prevent the respondents from interfering, but not to use any coercive methods and do not cause injury to personal right of both the parties.

The fact that the suit was filed for partition of the plaint schedule property itself would go to show that both the parties to the *lis* have been claiming ownership over the same and hence, one party cannot seek injunction over the other. Citing the order in I.A.No. 315 of 2011, police protection is sought to prevent the respondents therein from interfering with the suit schedule property. In other words, without even there being an injunction order, in the guise of police protection, an order, which was made to restrain the defendants from alienating the suit schedule property in favour of the 3rd parties, is sought to be enforced by the

police. This Court, therefore, is of the opinion that the impugned order is totally unsustainable and *per se* illegal.

In those circumstances, the Civil Revision Petition is allowed and the docket order in I.A.No .218 of 2017 is set aside. A caution is administered to the learned Junior Civil Judge to be conscious of the provisions of law while making such illegal orders. It is made clear that this order shall not be construed as foreclosing the right of the respondents herein to seek appropriate remedies in accordance with law. No costs.

Consequently, the miscellaneous Applications, if any shall stand disposed of.

21st December 2017

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CHALLA KODANDA RAM, J

