

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.6292 of 2017

ORDER:

Petitioner is the plaintiff in O.S.No.229 of 2011 filed by him against the respondents before the Principal Junior Civil Judge, Puttur for a perpetual injunction restraining the respondents from interfering with his alleged peaceful possession and enjoyment of the plaint schedule property, which is a house site containing an RCC building.

2. Along with the suit, petitioner filed I.A.No.1365 of 2011 under Order 39 Rules 1 and 2 of CPC for a temporary injunction restraining the respondents from interfering and digging a septic well on the north-western corner of the plaint schedule property till the disposal of the main suit.

3. Counter was filed to the said I.A. by the respondents opposing the same.

4. On 24.10.2016, the said I.A. was dismissed by the trial Court stating that since many documents were filed by both parties, trial needs to be conducted, even with regard to determining the possession of the property.

5. Assailing the same, petitioner filed CMA .No.38 of 2016 on 17.12.2016 before the Senior Civil Judge, Puttur.

6. After contest, the said CMA was dismissed on 13.10.2017. The lower Appellate Court also was of the opinion that the petitioner did not prove the ingredients necessary to get entitled to the relief of temporary injunction pending suit.

7. Assailing the same, this Revision is filed.

8. Counsel for petitioner contended that during the pendency of I.A.No.1365 of 0211 in the trial Court, there was an interim injunction in his client's favour and both the Courts below committed jurisdictional error in refusing to grant interim relief to the petitioner pending suit.

9. After considering the material on record, I am of the opinion that since there was no interim injunction in favour of the petitioner pending CMA.No.38 of 2016, at this point of time, it may not be appropriate to grant any interim relief to the petitioner.

10. Therefore, this Civil Revision Petition is disposed of directing the trial Court to decide the O.S.No.229 of 2011 pending on its file expeditiously, preferably within a period of six (06) months from the date of receipt of a copy of the order, uninfluenced by any observations made in the order dt.24.10.2016 in I.A.No.1365 of 2011 in O.S.No.229 of 2011 or in CMA.No.38 of 2016. No costs.

11. Miscellaneous petitions, pending if any, shall stand closed.

M.S.RAMACHANDRA RAO, J

22nd November, 2017.

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