

THE HONORABLE SRI JUSTICE M. SATYANARAYANA MURTHY

C.R.P.No.6849 of 2017

ORDER

This revision under Article 227 of the Constitution of India is filed challenging the order passed in I.A.No.148 of 2014 in O.S.No.273 of 2014 by the Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court, Bhadrachalam, dated 25.10.2017.

2. The respondent herein filed suit in O.S.No.273 of 2014 and I.A.No.148 of 2014 under Rule 42(a) and (c) of A.P.Agency Rules, for grant of interim injunction restraining the petitioner from interfering with the agricultural land of an extent of Ac.1.06 gts in S.No.62/67/2 situated at Somulagudem Village of Paloncha Mandal, Khammam District, during pendency of the suit. She asserted that she is in possession and enjoyment of the property being the owner of the land while complaining that the petitioner/defendant is threatening to interfere with her possession and enjoyment of the property and that she has got *prima facie* case and balance of convenience in her favour and she would sustain irreparable loss in case no interim injunction is granted and sought for interim injunction.

3. The petitioner/defendant, on appearance, filed counter setting up title and claiming possession over the property and informed that he filed O.S.No.331 of 2013 on the file of Sub-Divisional Magistrate, Mobile Court, Bhadrachalam and obtained an interim injunction in I.A.No.236 of 2013, which is in force, and sought to set aside the *ex parte* interim injunction order. He also filed certain documents to establish his possession over the property as on the date of filing his counter.

4. The Court below, upon hearing both the counsel, passed a cryptic order observing that on verification of the records, the respondent/plaintiff has established her possession and ownership over the suit schedule property and the petitioner/defendant has not filed any relevant document to prove his physical possession either from revenue side or from pattadar side and granted interim injunction pending disposal of the suit.

5. The main contention of learned counsel for petitioner before this Court is that the petitioner filed 12 documents in support of his claim, but none of the documents were adverted to by the Court below while deciding the application and on the other hand, passed serious remarks that the petitioner did not file any document either from revenue side or from pattadar side. The counsel for petitioner placed on record the certified copies of the documents, which were filed along with the plaint, obtained from the Court below and admittedly not considered by the Court below. Thus, the order passed by the Court below is cryptic order without considering any documentary evidence filed by either of the parties, except referring the list of documents filed by the respondent. The Court is expected to pass a reasoned order when both parties are claiming possession over the property and passing such order making serious remarks about non-filing of documents by the petitioner may lead to serious consequence and such practice is deprecated. Thus, the Sub-Divisional Magistrate, without applying his mind, passed the cryptic order. Therefore, the order passed by the Court below is hereby set aside, remanding the matter to the Court below to pass appropriate reasoned order after considering the documentary evidence produced by both the parties, in accordance with law, within 15 days from the date of receipt of a copy of this order.

6. With the above direction, the Civil Revision Petition is disposed of.
8. Miscellaneous petition, if any, pending in this revision, shall stand closed.

M. SATYANARAYANA MURTHY, J

8th December, 2017

Note:

Issue CC by 12.12.2017

sj

