

THE HONORABLE SRI JUSTICE M. SATYANARAYANA MURTHY

C.R.P.No.6830 of 2017

ORDER

This revision under Article 227 of the Constitution of India is filed challenging the order passed in I.A.No.236 of 2013 in O.S.No.331 of 2013 by the Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court, Bhadrachalam, dated 25.10.2017.

2. The petitioner herein filed suit in O.S.No.331 of 2013 and I.A.No.236 of 2013 under Rule 42(c) of A.P.Agency Rules for grant of interim injunction restraining the respondent 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. The petitioner asserted that he is in possession and enjoyment of the property being the owner of the land while complaining that the respondent/defendant is threatening to interfere with his possession and enjoyment of the property and that he has got *prima facie* case and balance of convenience in his favour and he would sustain irreparable loss in case no interim injunction is granted and sought for interim injunction.

3. The respondent/defendant, on appearance, filed counter setting up title and claiming possession over the property and informed that she filed O.S.No.273 of 2014 on the file of Sub-Divisional Magistrate, Mobile Court, Bhadrachalam and obtained an interim injunction in I.A.No.148 of 2014, which is in force, and sought

to set aside the *ex parte* interim injunction order. She also filed as many as 13 documents to establish her possession over the property as on the date of filing her counter.

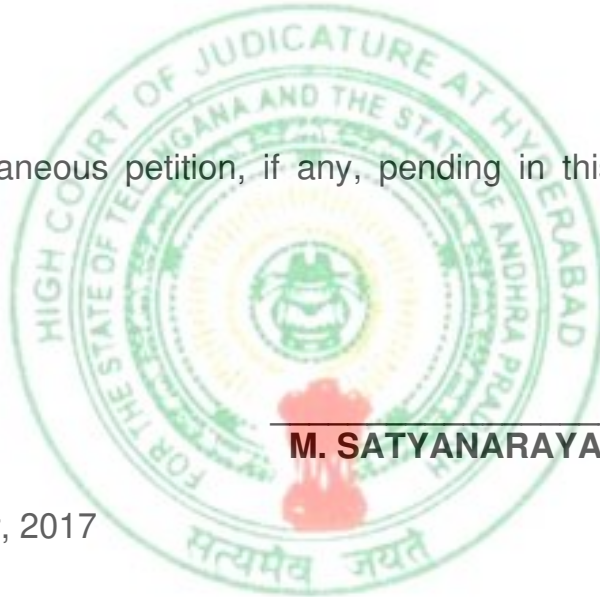
4. The Court below, upon hearing both the counsel, passed a cryptic order observing that on verification of the records, the plaintiff has not established his possession and ownership over the suit schedule property and he has not filed any relevant document to prove his physical possession either from revenue side or from pattadar side and dismissed the petition vacating the interim injunction granted by the Court in I.A.No.236 of 2013 in O.S.No.331 of 2013.

5. The main contention of the 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 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.

7. 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