

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

Civil Revision Petition No.36 of 2018

ORDER:

The challenge in this Civil Revision Petition at the instance of petitioners/defendants, is the order dated 22.12.2017 in I.A.No.359 of 2017 in O.S.No.114 of 2017 passed by the Senior Civil Judge, Gadwal allowing the petition filed under Section 151 C.P.C. by the respondents/plaintiffs seeking police protection to them for implementation of interim injunction passed in I.A.No.304 of 2017 (I.A.No.57 of 2017 Vacation Civil Judge, Mahabubnagar).

2) Heard arguments of Sri M.Ramalingeswara Reddy, learned counsel for petitioners and Sri Avinash Desai, learned counsel for respondents.

Perused the record.

3) The main plank of argument of learned counsel for petitioners is that in I.A.No.304 of 2017 the petitioners/defendants filed counter and the same is coming up for hearing and the trial Court without hearing and deciding the interim injunction petition at first, heard I.A.No.359 of 2017 and granted police aid to respondents/plaintiffs causing much hardship to the petitioners/defendants. He thus prayed to set aside the impugned order.

4) Per contra, learned counsel for respondents while admitting that I.A.No.304 of 2017 is pending for hearing, however, would argue that petitioners in utter violation of the ex-parte interim injunction used the community hall for commercial purposes and let out the same for holding marriages and other functions causing much annoyance and nuisance to

the locality people in general and respondents in particular as the plaintiffs are running college in their premises. Therefore, on the petition filed by respondents, the trial Court having satisfied with the violation of interim injunction caused by the petitioners granted police aid and as the impugned order is legally valid and justified, CRP is not maintainable and hence may be dismissed.

5) The point for determination is:

“Whether there are merits in this CRP to allow?”

6) **POINT:** It is to be noted that during the hearing, both the learned counsel made submissions on the merits of their respective cases touching the suit. However, it is not apt for this Court before whom a limited cause for adjudication is pending, to express its views on the merits and demerits on the main case. Admittedly, I.A.No.304 of 2017, which is an interim injunction petition, is pending before the trial Court for enquiry. In that view of the matter, this Court finds force in the submission of learned counsel for petitioners that trial Court should have decided the said petition on merits at first before embarking upon deciding I.A.No.359 of 2017. Therefore, interests of justice require impugned order to be set aside.

7) In the result, this CRP is allowed and the order dated 22.12.2017 in I.A.No.359 of 2017 is set aside with a direction to the trial Court to hear both the parties in I.A.No.304 of 2017 and pass orders on merits within two weeks from the date of receipt of a copy of this order. Till such orders are passed the petitioners/defendants can hold functions in their

community hall but, however, without using any types of mike system either inside or outside the function hall except using traditional music instruments (Doolu, Sannai etc.) during marriages.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: .02.2018

Note: Office to communicate copy of this order to the concerned Court immediately.

(b/o)
Murthy

