

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.384 of 2018

ORDER:

This revision petition is filed under Article 227 of the Constitution of India assailing the orders dated 20.11.2017 in C.M.A.No.7 of 2016 on the file of the Court of III Additional District Judge, Rajampet, Kadapa District, wherein whereby the order dated 19.11.2016 in I.A.No.226 of 2016 in O.S.No.90 of 2016, passed by the Junior Civil Judge, Rajampet, Kadapa District, dismissing the injunction petition filed by the petitioner, was confirmed.

2. Heard the learned counsel for the petitioner and perused the material available on record.

3. A perusal of the record reveals that the petitioner herein filed O.S.No.90 of 2016 on the file of the Court of Junior Civil Judge, Rajampet, against the respondents seeking perpetual injunction in respect of an extent of Ac.4.94 cents of land in Sy.No.2218 of Pollopalle village, Malemarpuram Revenue village, Chitvel Mandal, Y.S.R.Kadapa District. Along with the suit, the petitioner filed I.A.No.226 of 2016 under Order XXXIX Rules 1 and 2 CPC seeking ad-interim injunction. After affording a reasonable opportunity to both parties, the trial Court dismissed I.A.No.226 of 2016 on 19.10.2016.

4. Feeling aggrieved by the orders of the trial Court, the petitioner preferred C.M.A.No.7 of 2006 on the file of the

Court of III Additional District Judge, Rajampet. The appellate Court after considering the material available on record, dismissed the C.M.A., confirming the orders dated 19.10.2016 in I.A.No.226 of 2016 in O.S.No.90 of 2016. Feeling aggrieved by the orders in C.M.A., the petitioner preferred the present revision.

5. Learned counsel for the revision petitioner strenuously submitted that the trial Court dismissed the I.A.No.226 of 2016 in O.S.No.90 of 2016 solely basing on the orders of this Court in W.P.No.17742 of 2016 dated 08.06.2016. He further submitted that the Courts below have not considered the recitals of Exs.A1 to A4 and dismissed the petition on assumptions and presumptions. He further submitted that if the orders passed by the Courts below are allowed to stand, it would amount to miscarriage of justice.

6. Let me consider the facts of the case on hand in the light of the submissions made by the learned counsel for the petitioner.

7. It is the case of the petitioner that the suit schedule property was assigned to him in the year 1983 and ever since he has been in possession and enjoyment of the same. Ex.A1 is the pattadar pass book, Ex.A2 is the title deed book, Ex.A3 is the No.3 Adangal, Ex.A4 is the I-B Extract. The recitals of the above documents clearly reveal that the government

assigned the plaint schedule property to the petitioner way back in the year 1983.

8. It is the case of the respondents that on 23.09.1988, the petitioner executed an agreement of sale in favour of the first respondent and delivered the possession of the same. It is the further case of the respondents that the first respondent has been in possession and enjoyment of the suit schedule property since 28 years. It is not uncommon that the parties to the proceedings may take pleas, which are in their favour. It is needless to say that a person who seeks the equitable relief of injunction has to come to the Court with clean hands. A person who suppressed the material facts is not entitled for an equitable relief of interim injunction.

9. A perusal of Ex.B1 reveals the Tahsildar, Chitvel issued a notice under Form No.II to the first respondent on 03.09.2007 stating that why the suit schedule land cannot be resumed. Ex.B2 is the D form patta dated 05.04.1983 granted in favour of the petitioner. On 19.09.2007, the first respondent submitted his explanation to Form No.II notice dated 03.09.2007 (Ex.B3). As per the recitals of Exs.B1 and B3, it is *prima facie* revealed that as on the date of filing of the suit, the first respondent was in possession of the suit schedule property.

10. Feeling aggrieved by Ex.B1-Form II notice dated 03.09.2007, the first respondent filed W.P.No.17742 of 2016

before this Court. This Court disposed of the writ petition with the following observation:

“In view of the above facts and circumstances, the 4th respondent is directed to consider the explanation submitted by the petitioner on 19.09.2007 and pass final orders. Till such time, *status quo* obtaining as on today shall be maintained.

Accordingly, the writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.”

11. This Court specifically directed the concerned Tahsildar to maintain *status quo* till disposal of the case pending before him. Ex.B3 Explanation submitted by the first respondent *prima facie* shows that he has been in possession and enjoyment of the suit schedule land in pursuance of the agreement of sale alleged to have been executed by the petitioner. The petitioner did not disclose the factum of issuance of Form II notice (Ex.B1) to the first respondent in the year 2007. The petitioner also suppressed the factum of pending of case before the Tahsildar. The Courts below considered the documents filed by both parties and arrived at a conclusion that the petitioner failed to prove *prima facie* case and balance of convenience are in his favour. If interim injunction is granted in favour of the petitioner, it may cause untold hardship to the respondents. It is needless to say that this Court shall not lightly interfere with the concurrent finding of fact recorded by the Courts below. The trial Court as well as the appellate Court have assigned reasons much

less cogent and valid reasons to its findings. I am fully endorsing with the findings recorded by the Courts below. There is no illegality or irregularity in the orders of the courts below, which warrants interference of this Court while exercising the revisional jurisdiction under Article 227 of the Constitution of India. Viewed from any angle, the revision lacks merits and the same is liable to be dismissed.

12. Accordingly, Civil Revision Petition is dismissed at the stage of admission. As a sequel, the miscellaneous petitions, pending if any in this revision, shall stand closed.

January 25, 2018
Rns

T.SUNIL CHOWDARY, J

