

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL REVISION PETITION No.287 of 2014

ORDER:

This civil revision petition is filed questioning the orders passed in CMA No.37 of 2012 on 11.06.2013 by the District Judge, Mahabubnagar.

The CMA is filed challenging the order, dated 24.09.2012, passed in I.A.No.213 of 2006 in O.S.No.80 of 2006, on the file of the Junior Civil Judge, Kalwakurthy.

The suit O.S.No.213 of 2006 is a suit for bare injunction. I.A.No.213 of 2006 was filed for temporary injunction. In that application, Exs.A1 to A24 were marked by the plaintiffs. Exs.B1 to B14 were marked by the defendants. After an enquiry, the application was dismissed. Questioning the same, the CMA was filed.

In the CMA, the appellate court came to the conclusion that the order passed by the trial court is wrong and therefore, a temporary injunction is granted in favour of the plaintiffs and against the defendants. Questioning the said order, the defendants in the suit have filed the revision petition.

This court has heard Sri J.Janaki Rami Reddy, learned counsel for the petitioners, and Sri E.Madan Mohan Rao, learned counsel for the respondents.

The contention of the learned counsel for the petitioners is that the appellate court committed a serious error in passing the judgment. It is his contention that the land is allotted to the defendants in the suit and it is surplus land belonging to one P.Venkata Reddy, who is the father of the plaintiffs. According to the learned counsel, as it is surplus land, the

Government put the defendants in possession of the property. The learned counsel also relies upon an earlier suit O.S.No.60 of 1980, wherein the present revision petitioners were held to be in possession of the suit property. The learned counsel submits that although the judgment was passed in 1981, no steps have been taken to file a suit for re-delivery of possession etc., by the plaintiffs. The learned counsel also submits that the petitioners, who have filed the present revision, have also filed Exs.B1 to B14 to prove their possession and enjoyment of the property. Therefore, it is his contention that the order passed by the appellate court is contrary to law and that therefore, the revision petition should be allowed. In the alternative, the learned counsel also submits that his clients are willing for an order of *status quo* and that they would cooperate in the disposal of the suit which is of the year 2006.

On the other hand, the learned counsel for the respondents submits that the trial court committed a fundamental error in overlooking the documents filed regarding the re-delivery of the property at all. The learned counsel points out that the plaintiffs in the suit who are the respondents in this revision petition filed Exs.A1 to A24 to prove their possession and enjoyment of the property. The learned counsel submits that the land is not surplus land anymore and there is an order passed in LRA No.14 of 1978, dated 20.02.1979, and that subsequent to the said order, which is marked as Ex.A1, the property was re-delivered to the plaintiffs, as can be seen from Exs.A4 to A6, which are all of the year 1980. The learned counsel also submits that subsequent thereto, the pattedar passbooks etc., were issued and pahanis from the year 1983-84 to 2005-06 are filed. The learned counsel points out that the plaintiffs in

the suit and the respondents in the CRP are actually in physical possession of the property.

The question that arises for consideration is whether the revision petitioners have made out a case for interference with the impugned order.

The learned counsel for the revision petitioners argues that Exs.A1 to A4 are paper deliveries and there is no actual physical delivery of the property as on the ground. On the other hand, the learned counsel for the respondents argues that apart from the proceedings of delivery of the property, which are marked as Exs.A4 to A6, the respondents herein have also filed their pattedar passbooks and their title deed book which are Exs.A9 to A16. The learned counsel relies upon the presumption under Section 6 of the A.P.Rights in Land Pattedar Passbooks Act (for short "ROR Act). He contends that the entries in the record of rights register enjoy a presumption in law that the entries are true unless the contrary is proved. In the case on hand, the learned counsel points out that after the delivery of possession, the pattedar passbooks, title deeds and pahanis are issued.

This court, after hearing both the learned counsels, notices the documents that are filed by the revision petitioners in the trial court. Except Exs.B1 to B3, the other documents filed under Exs.B4 to B14 are of the year 1979. Exs.B1 to B3 are of the year 1981-82, 1979-80 and 1980-82. The suit is filed in the year 2006. The plaintiffs on the other hand have filed the panchanama proceedings of the Mandal Revenue Officer, pattedar passbooks, title deed books, copies of pahanis for the years 1983-84, 1986-87, 1987-88, 1994-95, 1995-96, 1996-97, 2004-05 and 2005-06. Whether the delivery effected is a paper delivery or not would

not be decided at this stage, particularly in a revision petition filed against an interlocutory order. Similarly, whether the plaintiffs are precluded from filing a suit for injunction in view of the judgment and decree passed in an earlier suit O.S.No.64 of 1980 is also not a matter that can be decided in the present revision petition.

A *Prima facie* view of the case has to be taken. This case *prima facie* view reveals that the plaintiffs have proved their possession and title. The finding of the appellate court in paragraph No.16 cannot also be totally ignored. This court notices that as per Exs.A1 and A2 the land was re-delivered to the father of the plaintiffs and that actual possession was handed over under Exs.A4 and A5, in which the defendants/the revision petitioners themselves have affixed their thumb marks. Therefore, the appellate court came to the conclusion that Exs.A1 to A5 have an overriding effect over Exs.B4 to B12. The appellate court also noticed in paragraph No.17 that re-delivery of possession etc., is also pleaded clearly.

In this view of the matter, this court is of the opinion that the order of the appellate court, which is now impugned in the present revision petition, does not suffer from any serious infirmities, warranting any interference at this stage. The order, dated 11.06.2013, passed in CMA No.37 of 2012, is confirmed. The civil revision petition is accordingly dismissed. No order as to costs.

In view of the fact the suit is of the year 2006, the trial court is directed to proceed with the trial of the matter and dispose of the same, in accordance with law, on a priority, preferably within a span of six months, without in any way being influenced by what is mentioned in this order.

Pending miscellaneous applications, if any, shall stand closed in consequence.

D.V.S.S.SOMAYAJULU,J

Date: 04.12.2018
Dsr

