

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

Civil Revision Petition No.2072 of 2018

ORDER:

Aggrieved by the order dated 12.02.2018 in CMA No.16/2017 passed by the learned V Additional District and Sessions Judge, Bhongir, dismissing the CMA by confirming the order dated 21.06.2017 in I.A.No.376/2016 in O.S.No.130/2016 passed by the Junior Civil Judge, Alair, granting interim injunction in favour of respondent/plaintiff, the instant CRP is filed by the petitioners/defendants.

2) The parties are referred as they were arrayed in the suit before the Trial Court.

3) Heard arguments of Sri S. Malleswara Rao, learned counsel for petitioners/defendants and Sri K. Satyanarayana, learned counsel for respondent/plaintiff.

4) The nub of the case is that while the respondent/plaintiff claimed that he purchased the suit property from Vedeti Laxmi Somamma W/o. Late Vedeti Vittalaiah @ Vittal Sharma under registered sale deed bearing document No.339/2016 dated 05.05.2016 and has been enjoying the suit property and also got mutation proceedings in the MRO office and obtained pattadar passbook in his name, the petitioners/defendants made a rival claim to the effect that even prior to the plaintiff, they

purchased the suit lands and some other lands from Vedeti Laxmi Somamma W/o. Vedeti Vittalaiah and others by virtue of an agreement to sell dated 18.08.2004 and later obtained three regular registered sale deeds dated 09.03.2016 from Vedeti Laxmi Somamma and others and thus they have been enjoying the suit properties and in that view, the plaintiff's claim that he purchased the suit properties from the vendor of the defendants is untenable.

5) Though the defendants putforth the contention that they are the prior purchasers, however, they did not produce their registered sale deeds to show that their title precedes to the plaintiff and thereby the plaintiff cannot get any valid title to the suit land. It appears, the petitioners/defendants putforth an argument before the lower Appellate Court that the vendors executed the sale deeds and delivered possession pursuant to the agreement to sell. However, the documents were not registered and kept pending for registration for want of filing pattadar passbook before the Registrar. They contended before lower appellate Court that merely because the documents were kept pending registration, the title of the defendants need not be doubted. However, their contention was not found favour with the Courts below. Having found that, besides Ex.P.1—registered sale deed dated 05.05.2016 the plaintiff also produced Ex.P.2—mutation proceedings, Ex.P.3—pattadar pass book of himself and Ex.P.5—pass book of his vendor and also Exs.P.6 to P.12—C.C of pahanies for the Fasli Years 1420 to 1426 and other relevant documents, the Courts below held that the plaintiff could

establish his *prima facie* title and balance of convenience in his favour. At the same time they held that though the defendants claimed that they were the prior purchasers, they could not file their registered sale deeds. They also could not file the documents showing their possession. On all these observations, the Trial Court granted interim injunction in favour of the plaintiff and the same was confirmed by the lower Appellate Court by dismissing the CMA No.16/2017 filed by the defendants. In this CRP though the petitioners/defendants sought to contend that the orders of the Courts below are wrong, however, they could not substantiate the said aspect. As already observed supra, the Courts below having regard to the formidable documentary evidence produced by the plaintiff, have held that the plaintiff could establish his *prima facie* title, possession and enjoyment of the suit land, whereas the defendants are concerned, though they claimed that they are the prior purchasers, they could not produce the registered sale deeds. It may be that their sale deeds were kept pending for registration for want of some information as sought to be projected by them. However, that argument will not enure to their benefit. At this stage, the defendants could not produce any other document showing their possession over the suit lands. So when the documents produced by either party are juxtaposed, it must be said that the plaintiff could establish his better title and possession over the suit property as on the date of filing suit than the defendants. As such I do not find any merits in the CRP.

6) Accordingly, this CRP is dismissed by confirming the orders passed by the Courts below. No costs.

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

U. DURGA PRASAD RAO, J

Date: 22.11.2018
SCS

