

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

C.R.P.NO.545 OF 2014

ORDER:-

The revision petition is filed questioning the order, dated 06-12-2013 passed in I.A.No.211 of 2013 in O.S.No.305 of 2013 on the file of the court of Special Assistant Agent and Sub Divisional Magistrate, Mobile Court, Bhadrachalam.

2. The impugned order is passed in a case filed by M.Venkateswara Rao and others against V.Mahendra and others. By this order, the respondents were restrained from interfering with the plaintiffs' peaceful possession and enjoyment of the property. The Station House Officer was also directed to give necessary protection to the properties of the plaintiffs.

3. The learned counsel for the petitioners points out that earlier there was an order passed by the very same court in I.A.No.154 of 2012 in O.S.No.164 of 2012 wherein one Badam Madhava Reddy was restrained from interfering with the plaintiffs' possession. In addition, he also points out that in WPMP No.42366 of 2012 in W.P.No.33293 of 2012, a learned single judge of this court held that the petitioner-Varsha Chetak was in possession and enjoyment of the property and directed the Government not to interfere with his possession. The order was also pertains to the land in

Sy.No.262. The learned counsel for the petitioners submits that there are multiple orders in favour of his client and the impugned order is passed in direct contravention of the earlier order passed.

4. On the other hand, the learned counsel for the respondents contends that the parties to the litigation are different. He points out that in WPMP No.42366 of 2012 in W.P.No.33293 of 2012 only the State and its officials are parties. In O.S.No.164 of 2012 an order was passed on 16-11-2012 in which one B.Madhava Reddy alone was a party. The land covered by the order passed in WPMP No.42366 of 2012 in W.P.No.33293 of 2012 is only Ac.5.00, whereas the land covered by the order, dated 16-11-2012 in I.A.No.154 of 2012 in O.S.No.164 of 2012 is of an extent of Ac.10.00. The learned counsel for the respondents points out that the impugned order is passed in a dispute relating to Ac.14.11 cents of land. Therefore, the learned counsel submits that the earlier order do not in any way restrict the court, as the suit schedule property and the parties are different. He, therefore, submits that there are no merits in the revision petition.

5. This court, after hearing both the learned counsel, is of the opinion that there is some strength in what is stated by the learned counsel for the petitioner. Although the order passed in WPMP No.42366 of 2012 in W.P.No.33293

of 2012 does not pertain to the same party, still this court recognizes the possession of the petitioner-Varsa Chetak who is the revision petitioner herein and directed the respondents not to interfere with his possession. The learned counsel submits that the writ petition is still pending.

6. In addition in I.A.No.154 of 2012 in O.S.No.164 of 2012 an order was passed on 16-11-2012 recognizing the possession of the revision petitioner, directing the respondent therein from interfering with the plaintiff's possession and enjoyment of Ac.10.00 of land.

7. The parties in I.A.No.211 of 2013 in O.S.No.305 of 2013 are no doubt different and the land is mentioned as admeasuring Ac.14.11 cents. However, this court notices that there is similarity in the boundaries that are mentioned.

8. In order to ensure that there is no scramble for possession and to ensure that no wrong orders are passed, this Civil Revision Petition is disposed of with a direction to the court below to conduct a clear *de novo* enquiry into I.A.No.211 of 2013 in O.S.No.305 of 2013 giving opportunity to both the parties to appear and introduce the evidence as necessary to prove their respective claims to possession. The lower court is directed to finish the enquiry in all respects within a period of two months from today.

9. It is also noticed that the Station House Officer was directed by the court below to give protection to the petitioner's property. This sort of an order of police protection should only be passed when there is obstruction of a court order and the need for protection arises. As a matter of routine, the police should not be directed to protect anybody's property. After an order is granted, if the same is being obstructed and an appropriate application is made for police aid, then only such an order should be passed.

With the above observations, the Civil Revision Petition is disposed of. No costs. Miscellaneous Petitions pending, if any, shall stand closed in consequence.

26-11-2018
TSNR

D.V.S.S.SOMAYAJULU,J

