

**HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

**CIVIL REVISION PETITION No.4100 OF 2017**

**ORDER:**

Respondent Nos.1 to 3 in I.A.No.15 of 2015 in O.S. No.4 of 2015 on the file of the Junior Civil Judge, Chennur, Adilabad District, against whom a temporary injunction was granted under Order XXXIX, Rules 1 and 2 of the Code of Civil Procedure, 1908, by order, dated 14.12.2015, concerning an extent of Ac.0-34 guntas in Survey No.170/1 of Kistampet village of Chennur Mandal, Adilabad District, who even did not succeed in C.M.A. No.8 of 2017 preferred by them before the learned II Additional District Judge, Mancherial, Mancherial District, were constrained to approach this Court under Article 227 of the Constitution of India by preferring the present Civil Revision Petition.

2. The revision petitioners and respondent No.2 herein are respondents - defendants in I.A. No.15 of 2015 in O.S. No.4 of 2015, while respondent No.1 is the petitioner - plaintiff.

3. Heard Sri P. Mehar Srinivasa Rao, learned counsel for the revision petitioners, and Sri M.R.S. Srinivas, learned counsel for respondent No.1. Respondent No.2 is shown as not a necessary party in the cause title of the memorandum of grounds of revision.

4. The submission of the learned counsel for the revision petitioners has been, that the pahanies marked as Exs.R-1 to R-19

would prove the possession of the revision petitioners over the subject property and Exs.R-20 to R-22, which are the declaration copy issued by Deputy Tahsildar, Chennur, attested copy of letter to Deputy Tahsildar, Chennur, letter and declaration issued and attested by the Deputy Tahsildar, Chennur and the Phtographs marked as Exs.R-23 to R-32 and Ex.R-33, compact disk, would prove the possession of the revision petitioners over the suit schedule property, but the Courts below did not properly assess the contents of Exs.R-1 to R-33 and, on the other hand, unjustly relied on Exs.P-1 to P-11 though, respondent No.1 - petitioner has not filed any pahanies to show the possession of his alleged vendor over the subject land prior to his purchase and, therefore, sought to allow the present revision by setting aside the granting of temporary injunction by trial Court and as affirmed by the lower appellate Court.

5. *Per contra*, the learned counsel for respondent No.1 would submit that the pahanies filed by the revision petitioners marked as Exs.R-1 to R-19 relate to the period long prior to filing of the suit and, therefore, the entries do not, in any way, help the revision petitioners to prove their *prima facie* possession at this stage and, on the other hand, the documentary evidence filed by respondent No.1 marked as Exs.P-1 to P-11 would prove the possession of respondent No.1 over the subject property on the date of filing the suit and, therefore, no interference is warranted.

6. As could be seen from the case set out by respondent No.1 - petitioner - plaintiff that he said to have purchased the suit schedule property from one Burra Rama Goud under a registered sale deed, dated 15.02.2014 and he was put in possession and consequent thereto, mutation has been effected by the Revenue Authorities by entering his name vide proceedings No.63/2014, dated 26.11.2014 issued by the Tahsildar, Chennur, and title deed book and pattedar pass book were issued by the Revenue Authorities and red gram crop was also raised by respondent No.1 and that the revision petitioners have no right or possession whatsoever over the suit schedule land, and with the active support of Village Revenue Officer of Kistampet village, who is their relative, bent upon to occupy the suit schedule property and started interfering with his possession, and on 15.03.2015, when they criminally trespassed into the suit schedule property and tried to occupy, he successfully resisted it and, therefore, he filed the aforesaid suit for perpetual injunction simpliciter and the application in I.A. No.15 of 2015 for temporary injunction.

i) In fact, the revision petitioners and respondent No.2, who are arrayed as respondent Nos.1 to 4 in the Interlocutory Application and defendant Nos.1 to 4, filed a common counter resisting the request. According to them, old Survey number of the suit land was 19/1 and one Bhairi Pocha Goud, son of Bhuma Goud was the pattedar between 1968 and 1972, but later the Revenue Department conducted survey

and allotted the new survey number 170 and at the time of allotting the new survey number, the name of Bhairi Pocha Goud, the original pattedar was wrongly entered as Burra Raja Goud, Burra Bakka Goud and Burra Bapa Goud, who are the sons of Burra Nara Goud. But, however, their names were not changed in the possessory column and since they are illiterates, they could not verify the entries in the revenue records and, thus, they do not have any knowledge as to the change of pattedars' names; that the pahanies for the years 1968-69, 1970-71 and 1971-72 show that their father Bhairi Pocha Goud is the pattedar of the suit land and they have been in continuous possession of the suit land. Then they denied the allegation that the VRO Kistampet village has been supporting them and they deliberately intended to occupy the suit land.

ii) According to them, they made an application before the Tahsildar claiming that the name of the vendor of respondent No.1 was wrongly entered and not to mutate the land in the name of any other persons and even they moved an application before the Tahsildar for conducting local inquiry regarding ownership and their possession over the suit land, and concerned Tahsildar conducted *panchanama* before the boundary holders and the local inquiry conducted on 24.12.2014 reveals that they were in possession of the suit land cultivating the suit lands since long time; that the local inquiry report also shows that they have gifted a bit of land from the

suit land to Gram Panchayat and that the concerned Gram Panchayat Authorities also dug a bore-well in the suit land for public purpose and that respondent No.1 is not even aware of the said gift made to the Gram Panchayat and, therefore, sought to dismiss the petition.

7. The trial Court relying on the documentary evidence filed by respondent No.1 herein, granted interim injunction, by order, dated 14.12.2015, in I.A. No.15 of 2015 in O.S. No.4 of 2015. Aggrieved over the same, the revision petitioners preferred C.M.A. No.8 of 2017. The learned lower appellate Court also observing that no documentary evidence is filed to show that the revision petitioners were in possession on the date of filing the suit and relying on the documentary evidence filed by respondent No.1, observed that *prima facie* possession of respondent No.1 is proved besides the entries made in revenue records and issue of title deed and pass book in favour of respondent No.1, and thereby affirmed the order passed by the trial Court by dismissing the said C.M.A. by order, dated 28.07.2017. Challenging the same, the revision petitioners preferred the present revision agitating the grounds as mentioned hereinbefore.

8. The learned counsel for the revision petitioners has, no doubt, drawn the attention of this Court to one of the documents i.e., the letter addressed by Mandal Revenue Inspector, Chennur to the Tahsildar, Chennur, wherein his inquiry would reveal that the revision petitioners have been in possession since last 50-55 years, and

pattedars, Sri Burra Raja Goud Family, were not in *kaasthu* and were not having possession, but they have sold the land to respondent No.1 and, thus, he was submitting the said report to the Tahsildar. The said report is dated 12.06.2015. Later, the Tahsildar, Chennur Mandal submitted his report, dated 18.06.2015, to the District Collector, Adilabad in proceeding No.A/GPR/1960/2014, stating therein that after publishing Form No.8 in the village for claims and objections on the application of respondent No.1, the revision petitioners, though, filed objection petition, but could not show any documentary evidence with regard to their physical possession of the land and after completion of the statutory time, the sale deed filed by respondent No.1 was implemented effecting the mutation registry bringing the name of respondent No.1 in ROR Proceedings No.12/2014, dated 26.11.2014 and, thus, the name of the purchaser, who is respondent No.1 herein, is occurring as pattedar and cultivator under the relevant column.

9. Exs.P-1 to P-11 marked on behalf of respondent No.1, are perused. The certified copies of pahanies (Exs.P-5 to P-10) would show the name of respondent No.1 as the pattedar as well as possessor on the date of filing the suit. Whereas, the true copies of pahanies filed by the revision petitioners marked as Exs.R-1 to R-19 between the years 1968-69 and 2009-10 show the name of the revision petitioners under possessory column, but the suit was instituted in the year 2015 and the revision petitioners could not file certified copies of

the pahanies at least for the year 2013-14 which relates to the period just prior to the purchase of suit schedule property by respondent No.1. Thus, it is too difficult to view that the revision petitioners were in possession on the date of filing the suit, just basing on the said letter that was addressed by the Mandal Revenue Inspector, Chennur, which requires thorough examination as to proof of the contents thereof, which can be done only during trial. At this stage, it is difficult to hold that the revision petitioners are able to prove their *prima facie* possession over the suit schedule property, more particularly, when the pahanies are only true copies but not certified copies filed by them. On the other hand, the pahanies filed by respondent No.1 would show the name of respondent No.1 as the possessor of the suit schedule property on the date of filing the suit. Hence, there is no merit in the present revision.

10. Accordingly, the Civil Revision Petition is dismissed confirming the order granting temporary injunction by the trial Court and as affirmed by the lower appellate Court. But, in the facts and circumstances of the case, the parties are directed to bear their own costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the revision, stand closed.

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**A. SHANKAR NARAYANA, J**

**January 22, 2018.**  
Mgr