

THE HON'BLE JUSTICE SRI T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.2023 of 2017

ORDER:

1 Challenge in this Civil Revision Petition, filed under Article 227 of the Constitution of India, is to the order dated 23.11.2016 passed in C.M.A.No.41 of 2013 on the file of the Court of the III Additional District Judge, Warangal, wherein and whereby the order dated 01.04.2013 passed in I.A.No.483 of 2012 in O.S.No.531 of 2012 on the file of the Court of the Principal Junior Civil Judge, Warangal, dismissing the petition filed by the petitioner seeking ad-interim injunction in respect of the suit schedule property, was confirmed.

2 The facts leading to the filing of the present Civil Revision Petition, in brief, are as follows:

3 The petitioner filed O.S.No.531 of 2012 on the file of the Court of the Principal Junior Civil Judge, Warangal seeking perpetual injunction restraining the respondent from interfering with the suit schedule property of an extent of Ac.1-18 guntas situated in Sy.No.1561/B of Madikonda village, Hanamkonda rural Mandal, Warangal district. Along with the suit, the petitioner filed I.A.No.483 of 2012 under Order XXXIX Rules 1 and 2 and Sections 94 and 151 CPC read with sections 36 and 38 of Specific Relief Act seeking ad-interim injunction. The respondent filed counter inter *alia* contending that the petitioner is not in possession of the suit schedule property and hence the petition is liable to be dismissed. The trial Court, after affording reasonable opportunity to both parties, by order dated 01.04.2013 dismissed the said petition. Feeling aggrieved by the order passed by the trial Court, the petitioner preferred C.M.A.No.41 of 2013 on the file of the Court of the III Additional District Judge,

Warangal. The learned Additional District Judge, after reappraising the material available on record afresh, dismissed the CMA. Hence the present Civil Revision Petition.

4 The learned counsel for the petitioner strenuously submitted that the courts below failed to consider that the petitioner purchased the suit schedule property from the vendors of the respondent under a registered sale deed. He further submitted that the courts below dismissed the petition on the sole ground that the sale deed of the respondent is prior to the sale deed of the petitioner. He further submitted that the findings recorded by the courts below are not based on any material, much less legally admissible material, therefore, it is a fit case to allow the revision.

5 *Per contra*, the learned counsel for the respondent submitted that the courts below considered the material available on record in right perspective and dismissed the petition. He further submitted that this Court shall not lightly interfere with the concurrent finding of fact recorded by the courts below in exercise of revisional jurisdiction under Article 227 of the Constitution of India and hence the Civil Revision Petition is liable to be dismissed.

6 A perusal of the record reveals that one Viswambhar Reddy owned an extent of Ac.16-18 guntas of land in Sy.No.1561 of Madikonda village, Hanamkonda Rural Mandal. The said Viswambhar Reddy sold an extent of Ac.1-18 guntas in favour of one K. Chandraiah under a simple sale deed in the year 1969. The said K. Chandraiah had two sons viz., Ramulu and Veera Swamy. It is the case of the petitioner that the L.Rs of Viswambhar Reddy and sons of Chandraiah executed an agreement of sale-cum-GPA on 27.2.2007-

Ex.P.4 in favour of one A. Rajender. The said Rajender executed a registered sale deed in favour of the petitioner on 12.4.2010 (Ex.P.3). The revenue authorities issued pattadar pass book (Ex.P.1), title deed (Ex.P.2) in favour of the petitioner by mutating his name in the revenue records vide mutation proceedings dated 13.01.2012 (Ex.P.5). Exs.P.6 to P.11 are pahanis. Ex.P.12 is the Memo dated 17.2.2010 issued by the Tahsildar.

7 The case of the respondent is that he purchased an extent of Ac.1-20 guntas in Sy.No.1360 and Ac.1-20 guntas in Sy.No.1561 of Madikonda under Ex.R.3 registered sale deed dated 11.06.1982 from K. Ramulu S/o Chadraiah. Ex.R.1 is the pattadar passbook and Ex.R.2 is the original title deed issued in favour of the respondent. Ex.R.4 is Form 1-A, Exs.R.5 and R.6 are original receipts dated 08.10.1989 and 01.02.1993 and Ex.R.7 is the pahani patrika for the year 2000-2001.

8 The petitioner as well as the respondent purchased Ac.1-18 guntas and Ac.1-20 guntas respectively in Sy.No.1561 of Madikonda village under two different sale deeds. As per the recitals of Ex.P.4, K. Chandraiah purchased Ac.1-18 guntas in Sy.No.1561 from the original owner Viswambhar Reddy. The L.Rs of Viswambhar Reddy and Chandraiah are parties to the agreement of sale-cum-GPA on 27.2.2007 (Ex.P.4). This itself *prima facie* indicates that late Viswambhar Reddy sold the property to Chandraiah way back in the year 1969. In such circumstances, why the L.Rs of Viswambhar Reddy once again joined as parties to Ex.P.4 has to be considered at the time of full fledged trial. As per the recitals of Ex.P.4, late Chandraiah, thereafter his sons by name Ramulu (vendor of the respondent) and Veera Swamy have been in possession and

enjoyment of the suit schedule property up to 27.2.2007. Both parties have obtained pattadar passbooks and title deeds. The revenue authorities issued pattadar passbook and title deeds (Exs.R.1 and R.2) in favour of the respondent on 25.04.1995 in respect of an extent of Ac.1-20 guntas Sy.No.1561. The revenue authorities also issued pattadar passbooks and title deeds (Exs.P.1 and P.2) in favour of the petitioner on 30.01.2012 of an extent of Ac.1-18 guntas in Sy.No.1561/B. The petitioner filed pahanis for the years 1994-1995, 1995-1996, 1998-1999, 1999-2000, 2001-2002 and 2011-2012. But Exs.P.6 to P.11 are no way helpful to the petitioner to establish the prima facie case of the petitioner. In the schedule also the survey number of the suit schedule property is mentioned as 1561/B. As per the recitals of agreement of sale-cum-GPA on 27.2.2007 (Ex.P.4) and Ex.P.3 sale deed dated 12.4.2010, the Survey Number is 1561, whereas as per the recitals of the plaint, the suit schedule property is situated in Survey Number 1561/B. Whether the suit schedule property is situated in Sy.No.1561 of 1561/B is not properly explained by the petitioner. The fact remains that the respondent purchased the property in the year 1982, whereas the petitioner purchased the property in the year 2010. As per the recitals of Ex.R.4 sale deed, the suit schedule property was delivered to the respondent in the year 1982 itself. The revenue authorities have also issued pattadar passbooks and title deeds in favour of the respondent much prior to the purchase of the property by the petitioner.

9 A person who seeks ad-interim injunction has to establish prima facie case, balance of convenience and irreparable loss likely to be caused if no injunction is granted in his favour. In the instant

case, the various documents filed by the respondent, prima facie, reveal that he has been in possession and enjoyment of the suit schedule property. On the contrary, the petitioner prima facie failed to establish that he is in possession and enjoyment of the suit schedule property as on the date of filing of the suit. The balance of convenience is also not in favour of the petitioner. If ad-interim injunction is granted in favour of the petitioner, it may cause untold hardship to the respondent. The petitioner failed to prove the three cardinal principles for granting of ad-interim injunction in his favour. Both the courts below have considered the material available on record in right perspective and arrived at a conclusion that the petitioner is not entitled to ad-interim injunction. The findings recorded by the courts below are based on material available on record. I am fully endorsing with the findings recorded by the courts below on this aspect. There is no illegality, irregularity or impropriety in the impugned order warranting interfering of this court while exercising jurisdiction under Article 227 of the Constitution of India. The Civil Revision Petition is devoid of any merit and is accordingly liable to be dismissed.

10 In the result, the Civil Revision Petition is dismissed. No order as to costs. As a sequel, miscellaneous petitions, if any connected to this Civil Revision Petition, shall stand closed.

T. SUNIL CHOWDARY, J.

Date: 28-08-2018.

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