

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

CIVIL REVISION PETITION No.80 of 2014

ORDER:

This civil revision petition is filed questioning the order, dated 09.12.2013, passed in C.M.A.No.1 of 2013, by the Senior Civil Judge, Narayanpet.

Notice was served to the respondent. Despite service, nobody has appeared on behalf of the respondent.

It is noticed that on 17.01.2014 this court in the CRP has restored the order passed by the trial court till further orders.

The trial court granted an injunction order which was set aside in the CMA by the first appellate court. In the CRP this court restored the trial court's order. The learned counsel for the petitioner submits that trial has already commenced and PW 1 was examined and cross examined, and the matter is now posted for defendant's evidence. In fact, a reading of the order passed in I.A.No.353 of 2012 clearly shows that in paragraph No.12 of the order the trial court has expressed its view that the respondent has also *prima facie* established that he is in lawful possession of the land. Thus, the first court held both are in possession. The trial court after perusing Exs.P1 to P11 and Exs.R1 to R24 clearly came to the conclusion that the issues raised in the suit have to be decided only during the course of trial.

In that view of the matter, as the trial has already started and progressed substantially and as the matter is posted for defendant's evidence, this court is of the opinion that the case has to be decided on merits in the trial court only. Interference at this stage is not called for.

The order dated 17.01.2014 is kept intact and the trial court is directed to proceed with the trial and dispose of the suit, in accordance with law, within a period of 3 months from the date of receipt of a copy of this order, without in any way being influenced by what is mentioned in this order.

The Civil Revision Petition is accordingly disposed of. In the circumstances, no costs.

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

Date: 26.11.2018
Dsr

D.V.S.S.SOMAYAJULU,J

