

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.3350 of 2018

26.11.2018

Between:

Sankurubothu Sanyasamma (died)
and Sankurubothu Adinarayana

..Petitioner

and

Sankurubothu Kondababu and another

..Respondents

Counsel for the petitioner: Mr.Kumar Etukuri
for Mr.Ravi Cheemalapati

Counsel for the respondents: Mr.S.V.Ramana
for Mr.O.Manohar Reddy

The Court made the following:



ORDER:

This Civil Revision Petition is filed against order, dated 28.03.2018, in C.M.A.No.48 of 2017, on the file of learned VII Additional District Judge (Fast Track Court), Visakhapatnam, whereby she has confirmed order, dated 04.10.2017, in I.A.No.410 of 2017 in O.S.No.821 of 2017 on the file of learned I Additional Senior Civil Judge, Visakhapatnam.

2. I have heard the learned counsel for both the parties and perused the record.

3. Originally, the aforementioned suit was filed by one Sankurubothu Sanyasamma (plaintiff No.1) and the petitioner herein (plaintiff No.2). After institution of the suit, plaintiff No.1 died. Along with the suit, I.A.No.410 of 2017 was filed for interim injunction restraining the respondents from interfering with the plaintiffs' peaceful possession and enjoyment of the suit schedule property. The said application was dismissed. C.M.A.No.48 of 2017 filed against the said order of dismissal has also been

dismissed. Questioning the same, this civil revision petition is filed by the surviving plaintiff.

4. It is not in dispute that in the counter-affidavit filed by the respondents in the aforementioned I.A. before the trial Court, they admitted that the plaintiffs have been in possession of 0.06 cents of land though they claim the same as permissible possession. Both the Courts below have not given due weight to this admission. In an application filed for injunction pending the suit, possession places pivotal role. Even if a person is in unauthorized possession, he is entitled to an interim injunction, at least, till the disposal of the suit as he cannot be vacated without following the due process of law by the defendants.

5. Mr.S.V.Ramana, learned counsel representing Mr.O.Manoher Reddy, learned counsel for the respondents, does not dispute the fact that the petitioner is in possession of 0.06 cents of land. He has, however, apprehended that in the guise of the order of injunction, the petitioner may raise construction.

6. In the light of the above facts and circumstances of the case, the order under revision is set aside. Interim injunction, as prayed for, in I.A.No.410 of 2017, in O.S.No.821 of 2017 is granted, pending the suit. However, the petitioner shall not raise any permanent construction in the aforementioned land, pending the suit. The Civil Revision Petition is, accordingly, allowed.

7. As a sequel to allowing the Civil Revision Petition, I.A.Nos.1 and 2 of 2018 stand disposed of.

26th November, 2018

GHN

C.V.NAGARJUNA REDDY, J

