

THE HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.19543 of 2018

ORDER:

Heard Mr.G.Tuhin Kumar for petitioner and the learned Assistant Government Pleader for Revenue.

The petitioner, filed O.S.No.109 of 2016 for the relief of specific performance, agreement of sale dated 07.02.2013 on the file of VI Additional District Judge's Court at Mahboobabad. The petitioner filed I.A.No.236 of 2016 under Order XXXIX Rules 1 and 2 of Code of Civil Procedure for temporary injunction restraining the defendants in the suit from interfering with petitioner's possession and enjoyment of plaint schedule property.

On 28.09.2016, the learned trial Judge granted injunction restraining the defendants from interfering with plaintiff's possession. It is also the case of the petitioner that the order of temporary injunction granted in I.A.No.236/2018, in favour of petitioner is subsisting as on date. The petitioner refers to Adangal/Pahani dated 28.11.2015 to show that the name of petitioner is included in the possessor column. The petitioner on 26.05.2018, issued notice to 4th

respondent calling upon the 4th respondent to maintain *status quo* as directed by the learned trial Judge in I.A.No.236 of 2016 for an extent of Ac.1-24 gts in Sy.No.108/A1 and also Ac.7-34 gts out of Sy.No.108/A at Ravigudem Village, Dornakal Mandal, Mahboobabad District. The 4th respondent, it is alleged, has received the copy of notice but proceeding to effect changes to Sy.No.108/A1 in revenue records.

The petitioner hence prays for the following relief:

“Writ of mandamus declaring the action of respondent No.4 in taking steps to alter and delete petitioner’s name and including the name of respondent No.5 in pattadar passbook as illegal, arbitrary, also contrary to the orders in I.A.No.235 of 2016. O.S.No.109 of 2016 dated 28.04.2017; contrary to the A.P.Rights in Land and Pattadar Passbooks Act, 1971 and unconstitutional.”

The case of the petitioner is that in column No.13 by referring to agreement of sale, the petitioner’s possession is recorded and now the entry is likely to be changed by the 4th respondent. Hence, the writ petition.

Mr.Tuhin has substantially reiterated the circumstances referred to above and contends that the 4th respondent, if is successful, in issuing pattadar

passbook in favour of 5th respondent and/or effects changes in Adangal/pahani etc; the changes are contrary to the order of the trial Court in I.A.No.235 of 2015 and that the rights of petitioner are prejudicially affected. According to him, once the *lis* is pending before the civil court, the 4th respondent is required to keep his hands off, and not exercise discretion or jurisdiction under the ROR Act. He further contends that the changes, if any will have to be made after the disposal of the suit or as prescribed by the trial Court, he places strong reliance on Section 8 (1) (2) of ROR Act and also the decision reported in ***V.Goutham Rao v. Revenue Divisional Officer, Jagtial, Karimnagar District and another¹***.

The Assistant Government Pleader vehemently opposes the writ prayer.

The first objection raised by Assistant Government Pleader is that the prayer to take note of the order of injunction granted by the trial Court, while proposing to change the name or enter the names of owner is completely misconceived for the order granted by the

¹ 2003 (1) ALD 681

trial Court is limited to the extent of protecting the alleged possession of petitioner or restricting the 5th respondent from interfering with the alleged enjoyment or possession of petitioner. The maintenance of Adangal/Pahani is undertaken on year to year basis. The petitioner, if has grievance, against the entries made in Adangal, the petitioner can work out remedy by filing appeal before the Revenue Divisional Officer and secondly, the petitioner cannot seek a blanket direction restraining the 4th respondent from entertaining the request under the Act or maintaining entries in adangal. He prays for dismissing the writ petition.

I have perused the record and noted submissions of learned counsel appearing for the parties.

For brevity, I propose not to refer to all the circumstances stated above. The basis for petitioner's claim is that the order of trial Court in I.A.No.235 of 2016 is subsisting. The prayer in I.A.No.235 of 2016 is not to alienate the petition schedule property to 3rd parties during the pendency of main suit. The prayer in I.A.No.236 of 2016 is not to interfere with the alleged possession of petitioner of plaint schedule property.

Assuming that the interim reliefs granted are subsisting as on date, this Court has difficulty in appreciating the contention of petitioner viz., that by operation of the injunction granted by the trial Court the 4th respondent is also restrained from passing orders and maintenance of adangal/pahani or statutory remedy under the Act. The 4th respondent is not a party to the suit and there is no direction or restraint order against him in these two I.A's.

The petitioner is holding agreement of sale and is seeking specific performance of agreement. The petitioner, can certainly work out all the prayers in the pending suit. The prayer, if at all is considered by this Court, the consideration amounts to consideration of the prayer on apprehension, in a way, not contemplated by jurisdiction of this Court under Article 226 of Constitution of India.

For the above reasons, by leaving it open to the consideration of the trial Court, this Court does not consider it appropriate to exercise discretion or jurisdiction for granting any direction. Hence, the writ

prayer is rejected and accordingly dismissed. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 13.06.2018
dv

