

SMT JUSTICE T. RAJANI

CIVIL REVISION PETITION No.3507 of 2018

ORDER:

This revision is preferred by the petitioners/respondents in I.A.No.22 of 2018 in I.A.No.10 of 2018 in O.S.No.2 of 2018, questioning the order, dated 05.03.2018, passed by the Principal Junior Civil Judge, Asifabad, in the said IA.

2. By the impugned order, the court below allowed the petition i.e., I.A.No.22 of 2018 in I.A.No.10 of 2018 in O.S.No.2 of 2018, which was filed under Section 151 CPC by the petitioner therein, seeking for police protection, to implement the order of ad interim injunction, which was granted in favour of the petitioner therein.

3. The averments in the petition filed by the petitioner are that the petitioner has been in possession and enjoyment of the said plot, having purchased it under the registered sale deed. The respondents, who do not have any manner of right, tried to interfere with his possession, thereby, he resisted and sent them out of the suit plot. In the absence of the petitioner, the respondents tried to remove the fencing and also damaged the cement poles. Thereby, the petitioner filed the suit for injunction and obtained an *ex parte* order of temporary injunction in I.A.No.10 of 2018. In spite of the said order of injunction, the respondents dug the land and erected the cement pillars, after service of injunction orders. He immediately reported the matter to the police. He took the photos of the said illegal

erection of pillars in his plot and also approached the Gram Panchayath, Asifabad and lodged a complaint and the Gram Panchayat, Asifabad also issued notices to the respondents.

4. The lower court, based on the said averments made in the affidavit filed by the petitioner therein, passed the impugned order directing the Station House Officer, Asifabad Police Station to give police aid to the petitioner as and when required. Assailing the said order, this revision is filed on the grounds that the court below erred in entertaining the petition filed by the respondent and erred in granting police aid to the respondent/petitioner therein to implement the temporary injunction order, without even advancing the date of the suit and in the absence of any out of order petition filed by the respondent.

5. Heard the counsel for the petitioners. None appears for the respondent in spite of service of notice.

6. The counsel for the petitioners submits that while granting ad interim injunction a notice was ordered on the petitioners, directing them to be present on 14.03.2018. The order of injunction is dated 20.02.2018. He further submits that the lower court, without any evidence regarding the digging of land and erection of cement pillars, by the petitioners, passed the impugned order and there was absolutely no verification done with regard to the said allegation made against the petitioners.

7. To examine the said contentions, perusal of the affidavit filed in support of the impugned petition would be helpful. It shows that the photographs were also taken in respect of the erection of pillars in the plot but the said photographs are not obviously filed in the court. It also shows that a complaint was laid with the Gram Panchayat, Asifabad and the said Gram Panchayat also issued notices. But even the copies of the said complaint is not filed before the court below.

8. Hence, from the above facts, the contentions of the petitioners herein become strengthened. The lower court appears to have passed the impugned order without there being any supporting evidence for the averments made in the affidavit of the respondent/petitioner therein. However, the counsel for the petitioners now submits that they made their appearance before the court below and has filed their counter and are contesting I.A.No.10 of 2018.

9. Hence, in the above circumstances, the impugned order is set aside and the lower court is directed to dispose of I.A.No.10 of 2018, expeditiously, preferably within two weeks from the date of receipt of a copy of this order.

Accordingly, the Civil Revision Petition is allowed. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

T. RAJANI, J

July 13, 2018
LMV