

SMT JUSTICE T. RAJANI

CIVIL REVISION PETITION Nos.4316 and 4664 of 2018

COMMON ORDER:

CRP.No.4316 of 2018 is filed aggrieved by the order dated 09.04.2018 in CMA.No.43 of 2017 passed by the III Additional District Judge, Asifabad and CRP.No.4664 of 2018 is filed aggrieved by the docket order dated 09.04.2018 in IA.No.686 of 2017 in CMA.No.43 of 2017 passed by the III Additional District Judge, Asifabad by virtue of which the petition filed to receive additional evidence was dismissed. Since the subject matter of both the revision petitions is same, they are taken up for a common consideration and disposal.

2. Heard the counsel for the petitioners and the counsel for the respondent.

3. The additional evidence that was sought to be adduced by the petitioners is in the form of pahanies, allegedly, showing the possession of the defendants in respect of the suit land. The Court below by considering that the documents were not filed in the trial Court and no reasons are stated for such lapse, dismissed the petition.

4. The counsel for the petitioners now contends that the petitioners, being illiterate, misplaced the said documents and could trace them out only at the stage of the appeal and hence, they sought to adduce the same before the Court below at the stage of the appeal.

5. The documents nevertheless show that they were obtained in the year 2015 i.e. before filing of the appeal. From the said fact, the contention that the documents were misplaced receives support

but by virtue of the order in CMA.No.43 of 2017 impugned in CRP.No.4316 of 2018 the Court below confirmed the order of the trial Court granting injunction in favour of the petitioners therein, who are respondents herein, by relying on the documents, which are filed by the respondents, which are pahanies evidencing their possession.

6. The counsel for the respondents submits that ad interim injunction was granted in the year 2013 and that since then, the respondents are under the protection of the interim order and the same was made absolute.

7. However, the counsel for the petitioners contends that the order does not reflect that ad interim injunction was granted in the year 2013. But, however, injunction was granted in the year 2017.

8. Hence, from the aforesaid fact, it can be understood that the respondents have been in possession of the suit property and their possession was also protected by way of injunction order. If the petitioners herein had any grievance and if they were dispossessed from the suit property under the guise of injunction order, they could have filed an appropriate petition to get the order vacated. But except filing a counter in the said petition, they did not choose to expedite the hearing of the petition or to file a separate petition, seeking vacation of the ad interim injunction order. Hence, the said conduct of the petitioners would lean the balance of convenience in favour of the respondents.

9. Hence, this Court opines that directing the trial Court to dispose of the suit within a period of six (6) months, from the date of receipt

of a copy of this order, would meet the ends of justice. Considering the contention of the counsel for the petitioners that if the order dismissing the petition seeking to adduce additional evidence is confirmed, the documents may not be admitted in the main suit, it is made clear that the dismissal of the petition shall not be an embargo for receiving the documents in the main suit.

Hence, the civil revision petitions are disposed of with the above observation. As a sequel, the miscellaneous petitions, if any pending, shall stand closed. There shall be no order as to costs.

August 24, 2018

Note: Furnish C.C. by 28.08.2018
(B/ o) DSK

T. RAJANI, J

