

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.4951 of 2018

ORDER:

This revision petition is filed under Article 227 of the Constitution of India assailing the order dated 04.08.2017 passed in C.M.A.No.3 of 2016 on the file of the Court of III Additional District & Sessions Judge, Gadwal, wherein whereby the orders dated 09.11.2016 passed in I.A.No.178 of 2016 in O.S.No.42 of 2016 on the file of the Senior Civil Judge, Gadwal, granting interim injunction in favour of the petitioner, was confirmed.

2. Heard the learned counsel for the respondent (petitioner herein) and perused the record.

3. The parties will be, hereinafter, referred to as they are arrayed before the trial Court to avoid confusion.

4. The petitioner filed O.S.No.42 of 2016 on the file of the Court of Senior Civil Judge, at Gadwal, against the respondent seeking perpetual injunction in respect of the suit schedule property. Along with the suit, the petitioner filed I.A.No.178 of 2016 under Order XXXIX Rules 1 and 2 CPC seeking interim injunction. The respondent filed counter *inter alia* contending that the petitioner is not in possession of the suit schedule property, hence, the petition is liable to be dismissed. After affording a reasonable opportunity to both

parties, the trial Court granted interim injunction in favour of the petitioner. Feeling aggrieved by the order dated 09.11.2016 passed in I.A.No.178 of 2016, the respondent preferred C.M.A.No.3 of 2016 on the file of the Court of III Additional District and Sessions Judge, Gadwal. The learned III Additional District Judge after considering the material on record, arrived at a conclusion that the petitioner has been in possession and enjoyment of the petition schedule property and consequently dismissed the appeal. Hence, this revision is filed by the unsuccessful respondent.

5. Learned counsel for the respondent (petitioner herein) strenuously submitted that the Courts below committed grave error while not considering Exs.B1 and B2. He further submitted that the Court below failed to consider that the petitioner fabricated Exs.A1 and A2 to deprive the legal rights of the respondent. He further submitted that the Courts below committed grave error while placing reliance on Exs.A29 and A30 gift settlement deeds.

6. Now, the point that arises for consideration is:

Whether there is any illegality, irregularity or impropriety in the impugned order?

7. It is not in dispute that the respondent, one Ramachandra Reddy (father-in-law of the petitioner) and Ammireddy are the sons of late Y. Veera Reddy. Originally,

the suit schedule property and some other properties owned by late Y.Veera Reddy. The father-in-law of the petitioner, respondent and Ammi Reddy have partitioned their properties. It is the case of the petitioner that the suit schedule property fell to the share of her father-in-law in the family partition. It is the further case of the petitioner that she has been in possession and enjoyment of the suit schedule property.

8. Establishment of *prima facie* case, balance of convenience and irreparable loss likely to be caused to the petitioner is *sine quo non* to grant interim injunction. It is needless to say that a person, who seeks equitable relief, has to come to Court with clean hands. Before the trial Court, on behalf of the petitioner, Exs.A1 to A35 were marked. To demolish the case of the petitioner, on behalf of the respondent, Exs.B1 and B2 were marked. A perusal of Exs.A2 and A3 *prima facie* reveals that the respondent and his two brothers have partitioned the suit schedule property. As per the recitals of Ex.A2 and A3, the suit schedule property fell to the share of Ramachandra Reddy, who is the father-in-law of the petitioner. Ex.A4 is the ROR issued by competent authority. Exs.A5 to A19 are the pahanies in respect of the suit schedule property. A perusal of these documents *prima facie* reveals that the father-in-law of the petitioner has been in possession and enjoyment of the suit

schedule property. A perusal of Ex.A31 reveals that the father-in-law of the petitioner lodged a complaint. A perusal of Exs.A34 and A35 also reveals that the father-in-law of the petitioner has been in possession and enjoyment of the suit schedule property. Exs.A29 and A30 are the original settlement deeds dated 25.02.2015 executed by Ramachandra Reddy in favour of the petitioner. A perusal of recitals of these documents *prima facie* reveals that Ramchandra Reddy, who is the father-in-law of the petitioner, delivered the suit schedule property in favour of the petitioner. A perusal of Ex.A1 certified copy of ROR *prima facie* reveals that the father-in-law of the petitioner has been in possession and enjoyment of the suit schedule property.

9. The predominant contention of the learned counsel for the respondent (petitioner herein) is that the Courts below have not considered Ex.B1. He further submitted that if the Courts below have considered Ex.B1, the findings would be otherwise. Ex.B1 is the panchanama conducted by Mandal Revenue Inspector, Tatikunta village of Maldakal Mandal, Mahaboobnagar District. As per the recitals of Ex.B1, the respondent is in possession of the suit schedule property along with his brothers. This document also supports the version of the petitioner that the father-in-law of the petitioner is the owner and possessor of the suit schedule property. Ex.B1 is no way helpful to the respondent either to

demolish the case of the petitioner or to substantiate his case. Ex.B2 which is the notarised affidavit also no way helpful to substantiate the stand of the respondent. On the other hand, Exs.A1 to A35 *prima facie* reveals that the father-in-law of the petitioner and thereafter the petitioner has been in possession and enjoyment of the suit schedule property, much less as on the date of filing of the suit. The balance of convenience is also in favour of the petitioner. If no injunction is granted, it may cause untold hardship to the petitioner when compared to the respondent. The trial Court considered various documents filed by both parties and arrived at a conclusion that the petitioner is entitled to interim injunction. The first appellate Court after reappraising the material available on record afresh, arrived at a conclusion that the petitioner is entitled to interim injunction and dismissed the appeal. The Courts below have assigned reasons much less cogent and valid reasons to its findings. I am fully endorsing the findings recorded by the Courts below. The petitioner established three cardinal principles for granting of interim injunction. There is no illegality, irregularity or impropriety in the impugned orders warranting interference of this Court while exercising the jurisdiction under Article 227 of the Constitution of India. Hence, the civil revision petition lacks merits and *bona fides* and the same is liable to be dismissed.

10. Accordingly, the Civil Revision Petition is dismissed at the stage of admission. No order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

29th August 2018

Rns

