

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.5366 of 2018

ORDER:

This Revision is filed assailing the order dt.31-07-2018 in E.P.No.14 of 2017 in O.S.No.81 of 2011 of the Junior Civil Judge, Sathyavedu.

2. The petitioner is J.Dr. in the E.P. The said suit had been decreed on 27-06-2016 by the Court below and a temporary injunction was granted restraining petitioner Nos.1 and 2 from interfering with the possession and enjoyment of the 1st respondent.

3. Alleging that petitioners along with 3rd respondent trespassed into the property on 29-01-2017, abused her and her husband and also beat up her husband, E.P.No.14 of 2017 was filed under Order XXI Rule 32 C.P.C. to punish the petitioners by putting them in civil prison by attaching their properties.

4. This allegation was denied by petitioners. Petitioners contended that they have challenged the judgment in O.S.No.81 of 2011 in A.S.No.21 of 2016 before the Senior Civil Judge, Sri Kalahasti, and that they did not disobey the orders passed in the suit. They specifically denied that 1st respondent/D.Hr. was ever in possession and enjoyment of the E.P. schedule property prior to filing of the suit or subsequent to filing of the suit.

5. Before the trial Court, the 1st respondent examined herself as P.W.1 and another witness as P.W.2 while the respondents examined themselves. The 1st respondent marked Exs.P-1 to P-3 and petitioners marked Exs.R-1 to R-4.

6. By order dt.31-07-2018, the Court below allowed the E.P. with costs and directed the petitioners to undergo 15 days civil imprisonment for willfully disobeying the decree dt.27-06-2016 in O.S.No.81 of 2011. It relied upon the admission of the 1st petitioner as R.W.1 that he was convicted for trespassing into the land and beating the husband of 1st respondent, and also his statement that he was aware of the order of the Court granting injunction in favour of 1st respondent. It also noted that there was no cross-examination of P.Ws.1 and 2 by petitioners with regard to the alleged incident on 29-01-2017.

7. Assailing the same, this Revision is filed.

8. Learned counsel for petitioners contended that 1st petitioner is a senior citizen and he and 2nd petitioner had not trespassed into the property claimed by 1st respondent. Learned counsel for petitioner did not dispute that petitioners pleaded in their counter in the E.P. that 1st respondent was in possession and enjoyment of the E.P. schedule property prior to the filing of the suit and also subsequent to filing of the suit.

9. Having suffered a decree of injunction in the suit, which they were not successful in getting suspended in the appeal filed by them,

they could not have continued to be in possession of the property after a permanent injunction granted in favour of 1st respondent.

10. That apart, when 1st petitioner has admitted that he was convicted for trespassing into the land of 1st respondent and for beating the husband of 1st respondent, it is clear that they have violated the order of perpetual injunction granted in the suit.

11. I therefore do not find any error of jurisdiction in the order passed by the Court below allowing the E.P. and sentencing the petitioners to suffer civil imprisonment.

12. Accordingly, the Civil Revision Petition is dismissed at the stage of admission. No costs.

13. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.



M.S.RAMACHANDRA RAO, J

Date : 05-10-2018
Vsv