

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

Civil Revision Petition No.5504 of 2017

ORDER:

This Civil Revision Petition is filed by the petitioner/defendant aggrieved by the order dated 19.09.2017 in C.M.A.No.2 of 2017 passed by the Senior Civil Judge, Narayanpet, whereunder the learned Judge granted temporary injunction restraining the defendant by setting aside the *status quo* order dt.05.06.2017 passed by the learned Junior Civil Judge, Kodangal in I.A.No.175/2016 in O.S.No.71/2016.

2) The parties are referred as they were arrayed in the suit before the Trial Court.

3a) The respondent/plaintiff filed suit—O.S.No.71/2016 seeking perpetual injunction decree against the petitioner/defendant in respect of land in Sy.No.410 dry to an extent of Ac.17-15 guntas (Ac.17-38 cents) situated in Regadimailaram village of Bomraspet Mandal, Mahabubnagar District. Plaintiff contended that he is the absolute owner and possessor of the suit property, which is his ancestral property. Originally the suit land stood in the name of his father—Raghavendra Chary and after his demise in the year 1989, he being the legal heir, succeeded the same and got mutated his name in the revenue records. On 28.05.2016, when the plaintiff was ploughing the suit land with agricultural labourers for next crop, the defendant interfered with his possession over the suit land and the same could be prevented with the help of adjacent land owners and agricultural labourers. Hence the suit.

b) The petitioner/defendant filed written statement and denied that plaintiff is the absolute owner and possessor of suit schedule land and that it is his ancestral property. The defendant submitted that suit schedule land is his ancestral property and that originally the patta stood in the name of his grandfather—Yenka and the same was recorded in Khasra pahani for the year 1954-55 and after the demise of said Yenka, his son Ramappa succeeded as his legal heir. Later, said Ramappa also died and the defendant being his son succeeded the suit property. The defendant contended that plaintiff by playing fraud in collusion with revenue officials, illegally got entered the name of his father in the year 1960-61, as the grandfather of defendant is an illiterate. Thus the defendant prayed to dismiss the suit.

c) Pending suit, the plaintiff filed I.A.No.175 of 2016 in O.S.No.71 of 2016, seeking temporary injunction against the defendant and the said petition was disposed of by the Trial Court directing both parties to maintain *status quo* over the suit schedule land till disposal of main suit.

d) Aggrieved, the plaintiff preferred C.M.A.No.8 of 2016 before the Senior Civil Judge, Narayanpet, whereby and whereunder the learned Judge allowed the CMA by setting aside the *status quo* order dt.05.06.2017 passed by the Junior Civil Judge, Kodangal in I.A.No.175 of 2016 in O.S.No.71 of 2016 and granted temporary injunction restraining the defendant and his men from interfering with the plaintiff's possession and enjoyment over the suit schedule property till disposal of main suit.

Hence the CRP by defendant.

4) Heard arguments of Sri Tera Rajinikanth Reddy, learned counsel for petitioner and Sri N.Ashok Kumar, learned counsel for respondent.

5) The point for determination is:

“Whether the impugned order passed by the learned Senior Civil Judge, Narayanpet in CMA No.2 of 2017 is factually and legally sustainable?”

6) **POINT**: I have carefully gone through the order of the Trial Court in I.A.No.175/2016 in O.S.No.71/2016 passed by the learned Junior Civil Judge, Kodangal and also the order in CMA No.2/2017 passed by the learned Senior Civil Judge, at Narayanpet and the concerned record. The suit—O.S.No.71/2016 is filed by the respondent/plaintiff seeking perpetual injunction decree against the petitioner/defendant in respect of land in Sy.No.410 dry to an extent of Ac.17-15 guntas (Ac.17-38 cents) situated in Regadimailaram village of Bomraspet Mandal, Mahabubnagar District. Pending suit, he sought for interim injunction in I.A.No.75/2016. It is trite law that a person, who seeks for interim injunction, shall by cogent evidence establish *prima facie* case and balance of convenience in his favour and in addition to them, the irreparable loss that he would sustain if the interim injunction is denied. A *prima facie* case means an arguable case determined in the trial. *Prima facie* case should not be confused with *prima facie* title. So in the instant case, the question is whether the respondent/plaintiff being the suitor, has established the necessary ingredients for conferring the interim injunction. The plaintiff

produced Exs.P.1 to P.18. Ex.P.1 is the pattadar passbook issued in favour of plaintiff showing his ownership among other lands, the suit land of Ac.17-38 gts in Sy.No.410. Then Exs.P.2 to P.15 are the certified copies of pahanies and ROR for different fasli years ranging from 1960-61 to till 2016. They would speak of the possession of the suit land by plaintiff and his father. It is true that the defendant also produced Exs.R.1 to R.24 to prove his possession over part of the suit property. However, a perusal of Ex.P.18 creates a controversy over the title and possession of the defendant. Ex.P.18 is the proceedings dt.28.04.2017 of the Collector, Vikarabad District, whereunder he placed Tahsildar, Bomraspet, under suspension. His order reads that it has come to his notice that the land bearing Sy.No.410 admeasuring Ac.17-15 gts stood in the name of plaintiff and the defendant herein illegally got mutated his name in online by creating Sy.No.410/1 to an extent of Ac.5-10 gts without any documentary evidence. On verification, he came to know that the entry in the name of defendant was incorporated in the online records and the same was digitally signed on 18.11.2014, on which date, the Tahsildar who was put under suspension was working as Tahsildar, Bomraspet. It is further mentioned that the land in Sy.No.410 in an extent of Ac.17-35gts situated at Regadimailaram village stands in the name of plaintiff, who got ORC also and the defendant illegally got mutated the land in his name online by creating Sy.No.410/1 without any documentary evidence. On that ground, the Tahsildar of Bomraspet, was kept under suspension. Thus Ex.P.18 creates any amount of doubt with regard to the possession of the defendant over Ac.5-10gts of land which is part of the suit land. Therefore, Exs.R.1

to R.24 which are controversial in nature in view of Ex.P.18 cannot be taken into consideration.

7) Thus on a conspectus of the facts and evidence on record, it can be stated that the plaintiff has been in lawful possession of the suit property as on the date of the suit and thus established his *prima facie* case. The balance of convenience also is in his favour as his enjoyment is recorded under Exs.P.2 to P.15 since 1960 and if interim injunction is denied to him, his long standing possession will become otiose. Ofcourse, the respective contentions of the parties have to be determined after full-fledged trial. However as the matter stands, since the plaintiff could establish all the necessary ingredients for granting interim injunction, he deserves the same which was rightly held so by the lower Appellate Court. I see no irregularity or perversity in the order impugned.

8) Accordingly, the Civil Revision Petition is dismissed. No costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 25.07.2018

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