

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.6128 OF 2017

ORDER:

This civil revision petition is filed by the third defendant, under Article 227 of the Constitution of India, assailing the order dated 18.9.2017 passed in I.A.No.212 of 2012 in O.S.No.78 of 2011 on the file of the Court of Junior Civil Judge, Nandikotkur, Kurnool District.

2. Heard the learned counsel for both the parties.

3. For the sake of convenience, the parties to this revision have been referred to, as they were arrayed in the I.A.

4. The petitioners filed the suit against the respondents seeking perpetual injunction in respect of the suit schedule property. During the pendency of the suit, the petitioners filed I.A.No.212 of 2012 under Order VIII Rule 9 of CPC seeking leave of the Court to file rejoinder to the written statement. The respondents filed counter opposing the petition on various grounds. The trial Court, after affording reasonable opportunity to both parties, allowed the petition. Hence, the revision petition.

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

Whether there is any illegality, irregularity or impropriety in the impugned order, to warrant interference of this Court?

6. It is an admitted fact that the petitioners filed O.S.No.78 of 2011 against the respondents seeking perpetual injunction in respect of an extent of Acs.0.47 cents in survey No.548 of Nandikotkur village and Mandal, Kurnool District. The

respondents filed written statement denying the plaint averments. The respondents have taken the plea in the written statement that the petitioners are not in possession of the suit schedule property as on the date of filing of the suit. During the pendency of the suit, the petitioners filed I.A.No.212 of 2012 under Order VIII Rule 9 of CPC seeking leave of the Court to file rejoinder answering the above aspect.

7. In order to succeed the suit, the petitioners have to establish that they have been in possession and enjoyment of the suit schedule property much less as on the date of filing of the suit. Even if the petitioners are permitted to file rejoinder, the same would not cause any prejudice to the respondents. The trial Court has exercised its discretionary power basing on sound principles of law. It is needless to say that this Court shall not lightly interfere with the discretionary orders passed by the trial Court.

8. Having regard to the facts and circumstances of the case, this Court is of the considered view that it is not a fit case to allow the revision petition. There is no illegality, irregularity or impropriety in the impugned order warranting interference of this Court.

9. In the result, the civil revision petition is dismissed. Miscellaneous petitions if any pending in this revision petition shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 21.8.2018

YS