

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

C.R.P.No.7304 of 2017

AND

C.R.P.No.7328 of 2017

COMMON ORDER:

These revision petitions under Article 227 of the Constitution of India are filed challenging the orders dated 05.12.2017 passed in I.A.No.632 of 2016 in O.S.No.564 of 2016 and I.A.No.633 of 2016 in O.S.No.565 of 2016 by the Sub-Divisional Magistrate, Mobile Court, Bhadrachalam.

The respondent/plaintiff-Smt Vangaru Rajeswari @ Rajeswamma filed suit for permanent injunction. Along with the suit, she also filed a petition under Rule 42(a) and (c) of A.P. Agency Rules, 1924, for grant of temporary injunction during pendency of the suit asserting that she is absolute owner and possessor of the schedule property. The said petition was allowed granting temporary injunction in her favour restraining the petitioners/defendants, their henchmen, servants, agents or anybody on her behalf from interfering with the peaceful possession and enjoyment of the property, pending disposal of the suit.

The petitioner/defendant herein opposed the said petition while asserting that she is in possession and enjoyment of the schedule property.

Upon hearing both counsel and perusing the material on record, the trial Court granted relief of temporary injunction during pendency of the suit.

Aggrieved by the aforesaid order, the present revision petition is filed raising several contentions. The main ground urged before this Court is that the impugned order is contrary to the judgment of the Division Bench of this Court in **T.Bhopal Reddy and another v K.R.Lakshmi Bai and another**¹.

Learned counsel for the petitioner reiterated the same grounds urged in the petition and requested this Court to remand the matter.

Whereas, learned counsel for the respondents contended that in the absence of any rule in the Agency Rules for marking the documents and in view of non-application of Civil Rules of Practice to the proceedings before the Agency Court, the impugned order cannot be set aside on the simple ground that the Court below did not mark the documents which are required under Rules 60 and 115 of the Civil Rules of Practice, though not applicable and granted the order. Therefore, the impugned order cannot be set aside.

Undoubtedly, A.P. Civil Rules of Practice have no application and they are only applicable to the Civil Courts in the State of Andhra Pradesh, but the Agency Courts are marking the documents though Civil Rules of Practice are not applicable, by practice to consider the documents. An identical question came up before this Court in **R.Parijatham and others v M.Kameshwari and others**² the Court held that failure to mark the documents is an error and set aside the order remanding the matter to the trial Court while directing the parties to maintain status quo till disposal of the petitions.

¹ 1998(1) ALD 770 (DB)

² 2017(5) ALD 348

Following the principles laid down by the Division Bench of this Court in **Amina Ayesha V. Model Constructions, rep. by its Managing Partner**³ and in **Mahaveer Infoway Ltd., Hyderabad and another V. Tech Minfy Info Solutions LLP, Hyderabad**⁴ I am of the view that by practice, the Agency Courts are bound to mark the documents only for referral purpose while deciding the dispute between the parties at the time of passing order. But still, it is an irregularity, and therefore, the impugned order is set aside while directing both parties to maintain status quo and the Sub Divisional Magistrate is directed to restore I.A.No.632 of 2016 in O.S.No.564 of 2016 and I.A.No.633 of 2016 in O.S.No.565 of 2016 to its original files and dispose of the petitions within three months from the date of receipt of a copy of this order.

With the above direction, the civil revision petitions are allowed. There shall be no order as to costs.

M. SATYANARAYANA MURTHY, J

Date : 05.02.2018

Note:

Issue CC in 10 days.

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³ 2014(3) ALT 345 (D.B.)

⁴ 2017(5) ALD 351(D.B)