

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.7260 OF 2017

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India, challenging the order in I.A.No.1244 of 2017 in O.S.No.319 of 2017 dated 08.12.2017 passed by the Senior Civil Judge, Sangareddy, in a petition filed under Order XXXIX Rules 1 & 2 r/w Section 151 C.P.C filed for grant of temporary injunction during pendency of the main suit.

For the sake of convenience, the parties will be referred to as arrayed before the Court below in in I.A.No.1244 of 2017 in O.S.No.319 of 2017.

The plaintiff/society filed suit O.S.No.319 of 2017 for grant of perpetual injunction restraining the defendants and their men from interfering with the administration/functioning/ into the lawful possession and enjoyment of the plaintiff/society in the suit schedule property. Along with the suit, the plaintiff filed I.A.No.1244 of 2017 in O.S.No.319 of 2017 for grant of ad-interim injunction under Order XXXIX Rules 1 & 2 r/w Section 151 C.P.C, during pendency of the suit.

The Trial Court passed an order in I.A.No.1244 of 2017 in O.S.No.319 of 2017 dated 08.12.2017 granting ad-interim injunction, restraining the respondents from interfering with peaceful possession and enjoyment of the plaintiff/society over the petition schedule property till 21.12.2017 and issued notice to the respondents. The order under challenge is virtually an order under Order 43 Rules 1 & 2 r/w Section 151 C.P.C, which is amenable to

appeal under Order 43 of C.P.C. But, instead of filing civil miscellaneous appeal under Order 43, the defendants 1 to 4 & 11 filed civil revision petition under Article 227 of the Constitution of India. Therefore, learned counsel for the respondents herein raised an objection that revision is not maintainable and placed reliance on the judgment of the Apex Court in **A. Venkatasubbiah Naidu v. S. Challappan and others**¹, wherein, the Apex Court held that, an application for grant of injunction or vacating the interim injunction is not amenable to revisional jurisdiction under Article 227 of the Constitution of India.

The judgment of the Apex Court referred supra is directly applicable to the present case, since the order under challenge is only interim injunction and thereby, in view of the judgment of the Apex Court referred supra, the revision under Article 227 of the Constitution of India is not maintainable. However, the petitioners herein/defendants 1 to 4 & 11 are at liberty to file appropriate application before competent Court under Order 43 C.P.C, if advised.

With the above observation, the civil revision petition is dismissed at the stage of admission.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:29.01.2018
SP
Note: cc by 02.02.2018
b/o
SP

¹ AIR 2000 SC 3032