

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.261 of 2019

ORDER :

This Revision is filed by the petitioner challenging the order dt.03.12.2018 passed in I.A.No.5456 of 2018 in CMA.S.R.No.25454 of 2018 on the file of the Chief Judge, City Civil Court, Hyderabad.

2. The 1st respondent had filed O.S.No.1676 of 2018 before the IV Junior Civil Judge, City Civil Court, Hyderabad for a perpetual injunction restraining the 2nd respondent from interfering with his possession and enjoyment of construction work in the plaint schedule property.

3. Pending suit, he filed I.A.No.575 of 2018 for grant of temporary injunction.

4. The Trial Court granted *ex parte* injunction in favour of 1st respondent against the 2nd respondent which was made absolute on 21.08.2018.

5. Contending that the property, which was the subject matter of the suit O.S.No.1676 of 2018, is Wakf property, the petitioner herein had filed O.S.No.38 of 2017 before the Telangana State Wakf Tribunal against the 1st respondent and others claiming it to be Wakf property, and the said suit is pending.

6. The petitioner therefore sought leave to file a C.M.A. challenging the order 21.08.2018 passed in I.A.No.575 of 2018 in O.S.No.1676 of 2018.

7. The 1st respondent filed a counter stating that the petitioner has no *locus* and he cannot be granted any leave. He pointed out that the suit is not for declaration of title, and petitioner is not a party to the suit and no allegations are made against him, and also no relief is sought against him; and the order passed by the Trial Court is not operating against petitioner.

8. By order dt.03.12.2018, the Court below dismissed the said I.A. and refused to grant leave to petitioner to challenge the interim injunction order granted in favour of 1st respondent in I.A.No.575 of 2018. It held that the petitioner had earlier attempted to get impleaded in the suit itself, but his application had been returned, and without pursuing the said remedy of getting impleaded in the suit, he cannot seek to file a petition to grant leave to file appeal against the order dt.21.08.2018 passed in I.A.No.575 of 2018 in O.S.No.1676 of 2018.

9. Challenging the same, the present Civil Revision Petition is filed.

10. Though the counsel for petitioner contended that the property which is subject matter of O.S.No.1676 of 2018 is Wakf property, and he had already filed O.S.No.38 of 2017 before the Telangana State Wakf Tribunal impleading the 1st respondent also therein, and so

petitioner ought to have been granted leave by the Court below, the fact remains that in O.S.No.1676 of 2018, no relief has been sought against the petitioner and any decree which may be passed therein will not bind the petitioner.

11. Therefore, the petitioner would not be affected by the order 21.08.2018 passed in I.A.No.575 of 2018 in O.S.No.1676 of 2018 by the IV Junior Civil Judge, City Civil Court, Hyderabad; and therefore, he is not entitled to grant of leave to file appeal against the said order.

12. Accordingly, the Civil Revision Petition fails and it is dismissed. No order as to costs.

13. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 08.02.2019

Ndr/*