

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.NO.209 OF 2019

Dated: 08.03.2019

Between:

M/s. Janachaitanya Housing Pvt. Ltd.
Rep.by K.Anjaiah.

...APPELLANT

And

1. Kattakindi Babaiah and sixteen others.

...RESPONDENTS

Counsel for the Appellant: Mr. Sricharan Telaprolu

Counsel for the Respondents:

The Court made the following:

THE HONOURABLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.NO.209 OF 2019

JUDGMENT: {Per the Hon'ble Sri Justice Raghavendra Singh Chauhan}

M/s. Janachaitanya Housing Pvt. Ltd, the appellant, has challenged the legal validity of the order dated 03.10.2018, passed by the VIII Additional District and Sessions Judge, Ranga Reddy District at L.B. Nagar, whereby the learned Judge has dismissed the temporary injunction application filed by the appellant against the respondents.

Briefly the facts of the case are that the appellant happens to be a company incorporated under the Companies Act, 1956. The main object of the company is to deal in real estate business by purchasing the land and selling the same in plots, with or without constructing the houses, mainly around the twin cities of Secunderabad and Hyderabad, and in Ranga Reddy District. During the course of its business, during the years 2000-01, the appellant-company purchased land situated in Survey Nos.80, 81, 82, 91, 92, 189 and 190 of Injapur Revenue Village, Hayathnagar Mandal, now known as Abdullapurmet, Ranga Reddy District, from various pattedars under different registered sale deeds. The entire extent of the land so purchased admeasured Acs.6.04³/₄ gts in the abovementioned survey numbers. The said land was purchased from the respondent Nos.1 to 15. After purchasing the property, the possession was handed over to the appellant-company. Furthermore, according to the appellant-company, after purchasing the entire property, the appellant-company levelled the

land, laid the roads, as per the layout and fixed the identification stones for the plots to facilitate different purchasers. Ultimately, it is enjoying the peaceful possession over the unsold plots i.e. plot Nos.6, 10, 15, 27, 70 and 76. However, as under the sale deed entered between the appellant-company and its purchasers of different plots, it is the duty of the company to develop the entire layout. Thus, the company started developing the layout. However, on 10.10.2017 around 11:00 A.M., the respondent Nos.1 to 17, along with their henchmen, tried to obstruct the development works being carried out by the appellant-company. Therefore, on 16.10.2017, the company lodged a complaint with the Station House Officer, P.S. Vanasthalipuram against the respondent Nos.1 to 17. However, despite having lodged the complaint against them, on 14.11.2017 at about 01:00 P.M., the respondent Nos.1 to 17 again interfered with the peaceful possession, and enjoyment of the property i.e. the entire layout plan. Again on 05.12.2017, the respondents interfered with the peaceful possession. Hence, the company filed a Civil Suit for seeking a permanent injunction against the respondent Nos.1 to 15. Along with the suit, the appellant-company also filed a temporary injunction application. However, by order dated 03.10.2017, the said temporary injunction application has been dismissed by the learned Judge. Hence, this appeal before this Court.

Mr. Sricharan Telaprolu, the learned counsel for the appellant, has pleaded that since it is the duty of the company to develop the entire layout scheme, and since the respondent Nos.1 to 17 were unnecessarily and illegally interfering with the

development work being carried out by the company, the company was entitled to grant of temporary injunction in its favour. However, the learned Court has erred in dismissing the temporary injunction application.

Heard the learned counsel for the appellant, and perused the impugned order.

A bare perusal of the impugned order clearly reveals that the learned Judge has considered the three criteria for grant of temporary injunction namely, the existence of *prima facie* case, balance of convenience, and irreparable loss being caused to the appellant-company in case the temporary injunction were not granted in its favour.

While discussing the first criterion, the learned Judge has clearly noticed that according to the affidavit filed by the appellant-company, it is only in possession of specific plots i.e. plot Nos.6, 10, 15, 27, 70 and 76. Yet, it was asking for a temporary injunction *vis-à-vis* the entire layout scheme. Since rest of the plots of the scheme were already sold to other persons, obviously the title and possession of the other plots sold to other persons was no longer with the appellant-company. Moreover, the learned Judge has also noticed the fact that the appellant-company has not received any authorization from the individual plot owners for filing the suit and for seeking a temporary injunction. Considering the fact that the appellant company was in possession of few plots, obviously the appellant-company could not have sought temporary injunction for property which was neither in its possession, nor under its title. Therefore, the learned Judge was justified in

concluding that temporary injunction could not be granted *vis-à-vis* the entire scheme.

Since the appellant-company could not establish the *prima face* case, obviously even the balance of convenience for those plots which are no longer with the company, could not be claimed by the appellant-company. Hence, the learned Judge was justified in concluding that the two of the factors which are required for the grant of temporary injunction in favour of the appellant-company were conspicuously missing. Therefore, the learned Judge was certainly justified in dismissing the temporary injunction application.

Hence, for the reasons stated above, this Court does not find any illegality in the impugned order.

However, as the company is liable to develop the entire scheme, the company shall be free to seek authorization from the plot-holders for representing their interests before the learned Court. If such a step is taken, the learned Trial Court is directed to reconsider the application for temporary injunction.

The appeal is dismissed, accordingly.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand dismissed.

(RAGHVENDRA SINGH CHAUHAN, J)

(T.AMARNATH GOUD, J)

8th March 2019
RRB