

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION Nos.675, 682, 726, 727, 776
and 873 of 2019

COMMON ORDER:

Since the parties as well as issue involved in all these Civil Revision Petitions are one and same, they are being disposed of by this common order.

2. All these Civil Revision Petitions are filed under Article 227 of the Constitution of India, aggrieved by the orders, dated 11.09.2018, passed in C.M.A.Nos.21, 20, 8, 10, 9 and 22 of the 2018 by the I Additional Chief Judge, City Civil Court, Secunderabad.

3. The petitioners herein are defendants 1, 2 and 4, whereas the respondents herein are the plaintiffs in O.S.No.485 of 2017. The respondents filed the subject suit for perpetual injunction restraining the defendants from interfering with their peaceful possession and enjoyment over the subject property. Pending the subject suit, I.A.Nos.417, 418 and 419 of 2017 in O.S.No.485 of 2017 on the file of XI Junior Civil Judge, City Civil Court, Secunderabad, came to be filed by the respondents /plaintiffs, seeking to grant interim injunction, not to alter the nature of property and not to alienate or encumber the subject land. The trial Court by order, dated 21.12.2017 dismissed the said applications as the respondents herein/plaintiffs failed to prove the possession over the subject property, but, however, granted *status quo* to be maintained by both parties. Aggrieved by the said orders, C.M.A Nos.8, 9 and 10 of 2018 are filed by

the petitioners/defendants, whereas C.M.A.Nos.20, 21 and 22 of 2018 are filed by the respondents/plaintiffs. The appeals preferred by the respondents/plaintiffs were allowed, wherein ad-interim order was granted as prayed for, whereas the appeals preferred by the petitioners/defendants were dismissed.

4. In the course of submissions, it is pointed out that the appellate Court did not record that the respondents/plaintiffs are in possession of the subject property. To grant the relief of injunction, the appellate Court ought to have recorded that *prima facie* the possession is with the respondents/plaintiffs. Without recording the said finding, the appeals filed by the respondents/plaintiffs were allowed, whereas the trial Court recorded that the respondents/plaintiffs are not in possession of the suit schedule property and dismissed the applications, but, however directed both parties to maintain *status quo*.

5. The appellate Court as well as trial Court has not followed the mandate given under Order XXXIX Rules 1 and 2 C.P.C. Therefore, the orders, dated 11.09.2018, passed in C.M.A Nos.21, 20, 8, 10, 9 and 22 of 2018 are set aside, consequently, the orders, dated 21.12.2017, passed in I.A.Nos.417, 418 and 419 of 2017 by the XI Junior Civil Judge, City Civil Court, Secunderabad, are also set aside and I.A.Nos.417, 418 and 419 of 2017 are restored to the file of XI Junior Civil Judge, City Civil Court, Secunderabad, for disposal in accordance with law. The trial Court shall dispose of subject IAs., within a period of thirty (30) days from the date of receipt of a copy of this order. Till

disposal of the said IAs, both parties are directed not to raise any structures over the suit land.

6. It is stated by learned counsel for the respondents/plaintiffs that the respondents filed an application before the appellate Court for return of the documents and hence, a direction may given to the Court below to return the documents. Acceding to the request of learned counsel for the respondents/plaintiffs, the appellate Court shall return the documents to the parties, who filed the documents.

7. With the above directions, all the Civil Revision Petitions are disposed of.

Miscellaneous petitions, if any, pending in all these revision petitions shall stand closed. There shall be no order as to costs.

20th November, 2019
YVL

Dr. SHAMEEM AKTHER, J