

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.1497 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners/defendants, challenging the order, dated 23.01.2017, passed in I.A.No.12 of 2016 in O.S.No.06 of 2016, on the file of the Principal Junior Civil Judge at Siddipet, whereby, the petition filed by the respondent/plaintiff under Order XXXIX Rules 1 & 2 read with Section 151 of C.P.C. for grant of temporary injunction restraining the petitioners/defendants, their family members, their henchmen or anybody on their behalf from interfering with the suit schedule property, was allowed.

2. Heard the learned counsel for the petitioners/defendants and perused the record.

3. The facts that led to filing of this Civil Revision Petition, in brief, are as follows:

Initially, the respondent/plaintiff filed a suit for perpetual injunction in O.S.No.6 of 2016 on the file of the Principal Junior Civil Judge at Siddipet, against the petitioners/defendants in respect of the suit schedule property. In the said suit, he filed I.A.No.12 of 2016 under Order XXXIX Rules 1 and 2 read with Section 151 of C.P.C. for grant of temporary injunction restraining the petitioners/defendants, their family members, their henchmen or anybody on their behalf from interfering with the suit schedule property. In the said I.A., the respondent/plaintiff contended that he is the owner and possessor of the suit schedule property,

having purchased the same through registered sale deed vide document No.2495/2015, dated 30.04.2015, from its original owner. He constructed a small room thereon to keep the construction material, after getting necessary permission from the municipal authorities under receipt No.159/01581, dated 14.09.2015. Originally, one Dattatreya Goud (father of the vendors of the respondent/plaintiff), along with Vanga Gal Reddy, Singaram Yadagiri and K.Raji Reddy, purchased land in an extent of Acs.1.20 guntas in Survey No.1304/2 under a registered sale deed vide document No.11/1975 and each of them is entitled for Acs.0.15 guntas of land. Thereafter, as per the orders of this Court in W.P.No.9187/1995, an appeal was preferred before the Revenue Divisional Officer, Siddipet, vide appeal No.C/379/2005. The said Dattatreya Goud was the appellant No.4 in the said appeal. As per the orders of the Revenue Divisional Officer, Siddipet, in the said appeal, it was established that the appellants therein purchased the land in question in good faith for valuable consideration and since the appellants 1 and 4 therein are landless poor and they are protected, the other appellants 2 and 3 therein were given chance to purchase the land in their possession as per the prevailing market rate at that time. Hence, said Dattatreya Goud has title and possession over the suit schedule land in an extent of Acs.0.15 guntas in Survey No.1304/2. The said Dattatreya Goud died on 20.05.2011. Thereafter, the legal heirs of said Dattatreya Goud alienated the suit schedule property in favour of the respondent/plaintiff. Ever since the date of purchase, the respondent/plaintiff is in peaceful possession and enjoyment of the suit schedule property. The petitioners/defendants, without any

manner of right whatsoever over the suit schedule property, created false and fabricated documents and are continuously trying to interfere with the possession of the respondent/plaintiff. Hence, the respondent/plaintiff is constrained to file the suit and the subject interlocutory application.

4. The petitioners/defendants filed counter in the subject interlocutory application, wherein, they have admitted the title and possession of Dattatreya Goud, in respect of the suit schedule property. They contended that said Dattatreya Goud, during his life time, sold the suit schedule property to one Yellu Rama, W/o. Vijender Reddy, under notarized simple sale deed, dated 10.02.2011 and delivered possession. The wife and two sons of Dattatreya Goud also affixed their signatures on the simple sale deed as attestors. The said Yellu Rama sold the suit schedule property in favour of the petitioner No.2/defendant No.2 through simple sale deed, dated 07.08.2013 and since then, the petitioners/defendants are in possession and enjoyment of the suit schedule property. To prevent encroachments, the petitioners/defendants got constructed a shed in a portion of the suit schedule property. In the meantime, the original owner Dattatreya Goud died. Hence, Yellu Rama and the petitioners/defendants have approached legal heirs of Dattatreya Goud with a request to discharge the pious obligation of Dattatreya Goud. But the legal heirs of Dattatreya Goud postponed the matter on one pretext or another. Taking advantage of the simple sale deed, the legal heirs of Dattatreya Goud created registered sale deed vide document No.2495/2015, dated 30.04.2015, in

favour of the respondent/plaintiff. The vendors of the respondent/plaintiff cannot go back from their stand since they admitted execution of simple sale deed by Dattatreya Goud in favour of Yellu Rama. The petitioners/defendants came to know about the execution of registered sale deed in favour of the respondent/plaintiff only after receipt of summons in the case from the Court. Hence, the petitioners/defendants are planning to institute a separate suit for specific performance against the legal representatives of Dattatreya Goud and also for cancellation of the sale deed alleged to have been executed by the legal representatives of Dattatreya Goud in favour of the respondent/plaintiff. The boundaries shown in the suit schedule property are not tallying with the simple sale deed and they are imaginary. There is a *prima facie* case and balance of convenience in favour of the petitioners/defendants. Hence, they prayed to dismiss the subject interlocutory application.

5. The trial Court, on analysis of the evidence on record, allowed the subject Interlocutory application granting interim injunction in favour of the respondent/plaintiff as prayed for. Aggrieved by the same, the petitioners/defendants preferred an appeal in C.M.A.No.3 of 2017 on the file of the VI Additional District Judge at Siddipet. The said appeal was dismissed. Hence, the petitioners/defendants filed this Civil Revision Petition.

6. The learned counsel for the petitioners/defendants would submit that the petitioners/defendants have several documents to their credit to establish their possession and ownership over the suit schedule property. The trial Court did not consider the same

and erroneously granted temporary injunction in favour of the respondent/plaintiff. The petitioners/defendants are having lawful title and possession over the suit schedule property and ultimately prayed to allow the Civil Revision Petition by setting aside orders under challenge.

7. In view of the above submissions, the point that arises for determination in this Civil Revision Petition is:

“Whether the temporary injunction granted in favour of the respondent/plaintiff by the Principal Junior Civil Judge at Siddipet, vide order, dated 23.01.2017, passed in I.A.No.12 of 2016 in O.S.No.06 of 2016, is liable to be set aside?”

8. It is pertinent to state that the respondent/plaintiff had filed a suit for perpetual injunction in O.S.No.06 of 2016 on the file of the Principal Junior Civil Judge at Siddipet, against the petitioners/defendants in respect of the suit schedule property. He also filed an interlocutory application in I.A.No.12 of 2016 in the said suit for grant of temporary injunction restraining the petitioners/defendants from interfering with the suit schedule property. The trial Court allowed the said interlocutory application, vide order dated 23.01.2017. Aggrieved by the same, the petitioners/defendants an appeal in C.M.A.No.3 of 2017 on the file of the VI Additional District Judge at Siddipet, which was dismissed vide order, dated 28.03.2019.

9. To substantiate his case, the respondent/plaintiff has filed the certified copy of registered sale deed vide document No.2495

of 2015, dated 30.04.2015, which is marked as Ex.A.1 and also other documents, viz., Exs.A.2 to A.6. Having carefully examined the said documents, the trial Court held that the respondent/plaintiff has *prima facie* case and balance of convenience in his favour and in the event of not granting interim injunction during the pendency of the suit, he would suffer irreparable loss and ultimately granted temporary injunction in favour of the respondent/plaintiff. The appeal preferred by the petitioners/defendants challenging the order of temporary injunction, was dismissed by the learned VI Additional District Judge at Siddipet as indicated above. The petitioners/defendants have not filed any registered sale deed to substantiate their case. Notarized documents and electricity bills filed by the petitioners/defendants would not substantiate their possession over the disputed house. Under these circumstances, the trial Court is justified in passing the impugned order.

10. It is apt to state that the supervisory jurisdiction conferred on the High Court under Article 227 of the Constitution of India is limited to see that a Court or Tribunal subordinate to it functions "*within the bounds of their authority*" and to ensure that law is followed by such Court or Tribunal by exercising jurisdiction vested in them and not declining to exercise the jurisdiction which is vested in them. Apart from the above, High Court can interfere in exercise of its power of superintendence, when there has been a patent perversity in the orders of the Courts or Tribunal subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been

flouted. In the instant case, neither there is patent perversity in the order under challenge nor the trial Court travelled beyond its jurisdiction in passing the impugned order. The trial Court discussed the material on record at length and ultimately granted temporary injunction in favour of the respondent/plaintiff, assigning number of reasons. There is nothing to take a different view. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

11. In the result, the Civil Revision Petition is dismissed. There will be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

30th August, 2019
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