

HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

CIVIL REVISION PETITION No.2585 of 2018

ORDER :

Heard both sides.

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.12.03.2018 in I.A.No.300 of 2016 in O.S.No.266 of 2016 passed by the Sub-Divisional Magistrate and Special Assistant Agent to Government (Mobile Court) at Bhadrachalam, Khammam District.

The petitioner herein is the plaintiff in the said suit, which was filed for perpetual injunction restraining the respondents/defendants from interfering with her possession and enjoyment of the plaint schedule property.

The plaint schedule consists of Acs.3.00 in Sy.No.137/RUU/1, situated at Chunchupalli of Kothagudem Revenue Mandal, Khammam District.

Along with the suit, the petitioner also filed I.A.No.300 of 2016 under Rule 42 (a) and (c) of A.P. Agency Rules, 1924 seeking temporary injunction pending the suit.

She filed copies of Pattadar Pass Book, title deed, Pahani of 2011-12, Mee Seva Pahanies dt.23.10.2012, 07.08.2014, 25.06.2016 and 04.07.2016 in support of her title and possession of the plaint schedule property on the date of filing of the suit.

The Court below initially granted *exparte* interim injunction in her favour vide order dt.19.07.2016 in I.A.No.300 of 2016.

The respondents then filed counter affidavit to vacate the said interim order stating that they obtained an injunction order in I.A.No.89 of 2014 in O.S.No.136 of 2014 against the petitioner and also denying the ownership and possession of the petitioner over the plaint schedule property.

By order dt.12.03.2018, the Court below vacated the said interim injunction granted by it on 19.07.2016. *Firstly*, in the said order, it referred to the injunction order granted in favour of the respondents in I.A.No.89 of 2014 in O.S.No.136 of 2014. However, a perusal of the plaint in the said suit indicates that the land, which is the subject matter of that suit, is different from the subject matter of land in O.S.No.266 of 2016. Therefore, the said factor cannot be a ground to hold against the petitioner.

Secondly, the Court below mentioned that the petitioner herself had sought amendment by reducing the plaint schedule property from Acs.3.00 to Ac.1.08 gts. and that, therefore, the contention of the petitioner that she was in possession of the petition schedule property on the date of filing of the suit is false. This is also a perverse observation, because the filing of the Amendment Petition would suggest that the petitioner is confining the relief sought by her to Ac.1.08 gts. and the Court below should have confined the

temporary injunction to that extent only and it cannot vacate the said injunction order for the entire extent.

Thirdly, the Court below relied on the report of the Tahsildar, Kothagudem, stating that there is no such land, as is claimed by the petitioner, exists. The Court below cannot outsource its decision making to the Tahsildar and the Revenue authorities and should rely on the documents filed by the petitioner and the respondents to come to a conclusion.

Therefore, the conclusion of the Court below that the petitioner failed to show her possession, inspite of the petitioner filing the Pattadar Pass Book, title deed and Pahanies, is clearly perverse and unsustainable.

Therefore, the order dt.12.03.2018 in I.A.No.300 of 2016 in O.S.No.266 of 2016 of the Court below is set aside; and the said I.A. is allowed.

Consequently, the Civil Revision Petition is allowed and the Court below is directed to decide the suit in O.S.No.266 of 2016 as expeditiously as possible, preferably within a period of six (6) months from the date of receipt of a copy of this order. No order as to costs.

As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

12.03.2019.
Msr

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