

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.1637 of 2019

ORDER :

This Revision is filed challenging the order dt.24-06-2019 in I.A.No.1037 of 2019 in I.A.No.1639 of 2018 in O.S.No.422 of 2018 of the V Junior Civil Judge, Kukatpally at Prashanthi Nagar.

2. Petitioners herein are plaintiffs in the suit, which they had filed for a perpetual injunction in their favour restraining the respondent from interfering with their alleged peaceful possession and enjoyment of the suit schedule property.

3. They also filed I.A.No.1639 of 2018 invoking Order 39 Rules 1 and 2 C.P.C. and sought interim injunction pending disposal of the suit restraining the respondents from interfering with their alleged peaceful possession and enjoyment of the suit schedule property.

4. On 24-12-2018, *ad interim* injunction was granted *ex parte* in favour of the petitioners till 25-01-2019 and petitioners were directed to comply with Order 39 Rule 3 C.P.C.

5. Petitioners did comply with Order 39 Rule 3 C.P.C. and sent to the respondents the copy of application for temporary injunction together with copy of affidavit filed in support of the said application, copy of plaint, and copies of documents on which petitioners rely.

6. On 25-01-2019, respondent Nos.1 and 2 entered appearance through an Advocate, and on 05-02-2019, vakalat was filed by 3rd respondent, but 3rd respondent was set *ex parte* on 14-03-2019, on which date counters of respondent Nos.1 and 2 were filed.

7. On 14-06-2019, petitioners filed I.A.No.1639 of 2018 to extend the *ad interim* injunction granted in their favour till next date of adjournment.

8. However, in spite of petitioners complying with Order 39 Rule 3 C.P.C., on the pretext that certain implead petitions were pending, in which counters are required to be filed, the Court below, on 24-06-2019 vacated the *ad interim* injunction granted by it on 24-12-2018.

9. Assailing the same, this Revision is filed.

10. Learned counsel for petitioners contended that when the petitioners have complied with procedure laid down in Order 39 Rule 3 C.P.C., it was incumbent on the part of the Court below to decide I.A.No.1639 of 2018 instead of awaiting for counters to be filed in the implead petitions filed by certain third parties.

11. Learned counsel for respondents, however, contends that petitioners were not ready to argue I.A.No.1639 of 2018, and that was why the Court below did not extend the *ad interim* injunction granted by it on 24-12-2018.

12. I have noted the contentions of both sides.

13. The Court below in the impugned order does not state that petitioners were not ready to argue I.A.No.1639 of 2018 before 25-01-2019 as is sought to be contended by the respondents.

14. That being the position, when vakalat for respondent Nos.1 and 2 were filed on 25-01-2019 and 3rd respondent was set *ex parte* on 14-03-2019, on which date counters were filed by respondent Nos.1 and 2, the Court below cannot refuse to extend the *ad interim* injunction on the ground that it was unable to decide I.A.No.1639 of 2018 before 25-01-2018.

15. It is settled law that fault of Court should not prejudice a party and the inability of the Court below to decide I.A.No.1639 of 2018 before 25-01-2019, cannot be a ground to refuse to extend the *ad interim* injunction.

16. In this view of the matter, the order dt.24-06-2019 in I.A.No.1037 of 2019 in I.A.No.1639 of 2018 in O.S.No.422 of 2018 of the V Additional Junior Civil Judge, Kukatpally at Prashanthi Nagar is set aside; the Court below is directed to decide I.A.No.1639 of 2018 after hearing both sides within four (04) weeks from the date of receipt of copy of this order, and the *ad interim* injunction granted by it on 24-12-2018 is extended till disposal of I.A.No.1639 of 2018 by it.

17. This Civil Revision Petition is allowed with the above directions. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 19-07-2019

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