

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

SECOND APPEAL No. 219 of 2019

JUDGMENT:

The respondent herein filed O.S.No.204 of 2010 in the Court of the Principal Junior Civil Judge, Siddipet, for the relief of perpetual injunction restraining the appellant from interfering with his peaceful possession and enjoyment over the suit schedule property. The respondent-plaintiff pleaded that an extent of land admeasuring Ac.1.17 guntas in Survey No.88, situated at Renuka Yellamma Temple, G.P. Prashanthnagar, Siddipet Revenue Village and Mandal, Medak District, originally belongs to his paternal grand mother and out of the same, an extent of Ac.1.01 ½ guntas of land was sold in favour of the appellant-defendant. The case of the appellant is that an extent of Ac.0.15 ½ guntas of land was taken over by PWD Department for laying a road and the land is in 'abadi' and there is no other land left, as such, the question of there being any interference by him does not arise. It is also his assertion that in the guise of the injunction order, it is the respondent who is trying to interfere with the possession and enjoyment of the property which was sold in his favour.

After taking into consideration the material evidence on record, the trial Court having found that the respondent is the owner of the land admeasuring Ac.0.15 ½ guntas; that the appellant himself admitted that the road was in existence since 30 to 40 years; that there was no other material which was brought before the Court

with respect to the assertion of the appellant that the land was taken over by PWD Department; that in the cross examination, D.W.1 categorically admitted that to an extent of Ac.0.15 ½ guntas of land, the plaintiff has right and title over the same and that D.W.1 has no objection to decree the suit with respect to the land of the respondent, decreed the suit. In A.S.No.4 of 2015, learned VI Additional District Judge, Siddipet, did not interfere with the said findings and thereby, confirmed the injunction granted by the trial Court.

In the facts of the present case, the suit is filed for injunction simplicitor. What is required to be considered by the Court is *prima facie* title and possession with respect to the suit schedule property. The fact that the respondent is in possession and enjoyment of the suit schedule property and is having ownership thereon coupled with the granting of injunction by the trial Court and affirming the same by the lower appellate Court does not give rise to any question of law, much less, substantial question of law. The only apprehension of the appellant is that in the guise of the injunction obtained by the respondent in the injunction suit, he may interfere with his possession over the property purchased by him. However, this would give rise to a separate independent cause of action. In those circumstances, it is for the appellant to seek appropriate protection from the Court *de hors* the judgment and decree of the trial Court.

Hence, the Second Appeal is dismissed, leaving it open to the appellant to work out the remedies, if the respondent interferes with his possession over the property purchased by him.

Miscellaneous petitions, if any, pending shall also stand dismissed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:06.08.2019

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