

HIGH COURT FOR THE STATE OF TELANGANA
THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

Writ Petition No.23116 of 2019

Date: 23.10.2019

Between:

M/s.Satish Mutually Aided Co-op.
Housing Society Limited,

..Petitioner

And

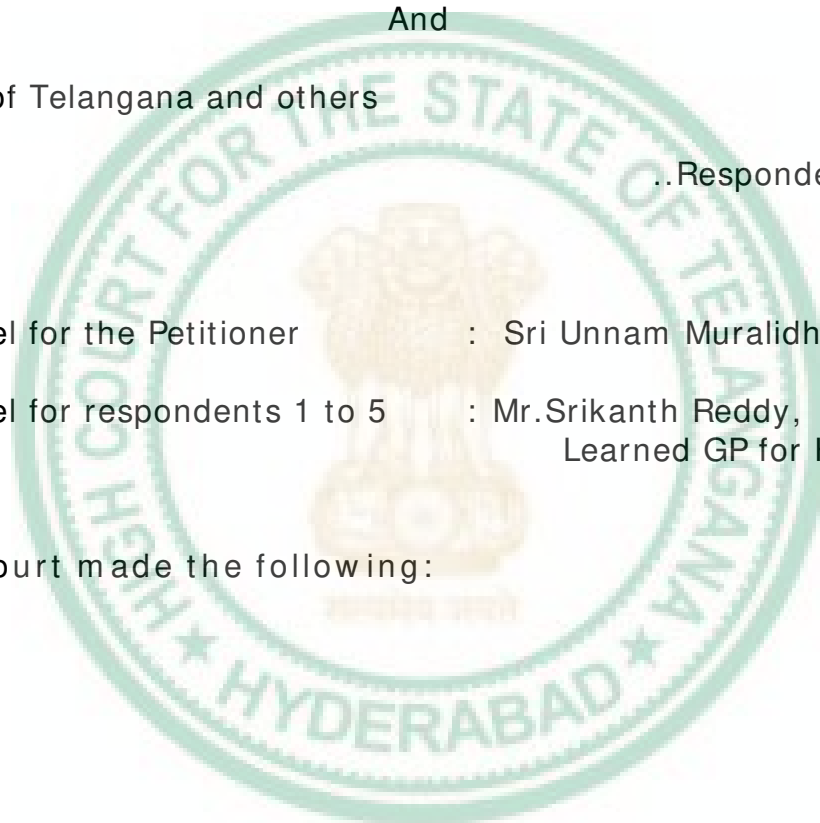
State of Telangana and others

..Respondents

Counsel for the Petitioner : Sri Unnam Muralidhar Rao

Counsel for respondents 1 to 5 : Mr.Srikanth Reddy,
Learned GP for Home

The Court made the following:



ORDER: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

Aggrieved by the order, dated 17.09.2018, passed by a learned Single Judge in C.C.No.1294 of 2018, the present Writ Petition is filed by the petitioner herein, which is a third party to the Contempt Case, seeking the following reliefs:

a) To direct the respondents 1 to 5 not to usurp the role of civil court, and assume the role of a bailiff of a civil court, under the guise of implementing the order in CC No.1294/2018, dt.17/09/2018 passed by His Lordship Dr.B.Sivashankar Rao (Retd);

b) To declare the order in CC No.1294/2018, dt.17/09/2018, passed by His Lordship Dr.B.Sivashankar Rao (Retd) in CC No.1294/2018 not to be construed to be an order under the Contempt of Courts Act, 1971; and

c) To further direct the registry to club WP Nos.13988/2005, 14052/2005, 16554/2005, 16559/2005, 16563/2005, 5166/2017 and SA No.1168/2011 to be heard and decided by appropriate court, having the roster to hear the same, or to post all of the above said cases before any other judge, to be heard and decided within a time bound frame, as may be ordered by the Hon'ble Chief Justice;"

2) The brief facts of the case are that the petitioner-Housing Society claims to have purchased land in survey Nos.242, 247, 249, 250, 251, 252 and 268. The Society, thereafter, divided the land into plots and sold them to the members of the Society through registered sale deeds. The members are in peaceful possession and enjoyment of their respective plots. Further, it is the case of the petitioner that under the guise of the orders passed in Contempt Case No.1294 of 2018, dated 17.09.2018, the official respondents are trying to induct the unofficial respondents into possession of the plots of the members of the petitioner-Society.

The unofficial respondents under the guise of fabricated agreements of sale alleged to have been executed by the erstwhile tenants are trying to dispossess the members of the petitioner-Society under the guise of the orders of Police aid granted in the Contempt Case.

3) Heard Sri Unnam Muralidhar Rao, learned counsel for the petitioner-Society, and Sri Srikanth Reddy, learned Government Pleader for Home.

4) The learned counsel for the petitioner has strenuously contended that under the guise of the orders passed in the Contempt Case, the unofficial respondents are trying to dispossess the members of the petitioner-Society and as such there is an urgent need to interfere with the orders passed in C.C.No.1294 of 2018, dated 17.09.2018, by the learned Single Judge. It is the further case of the petitioner that the Police officials are trying to act as the bailiff of the Court, and trying to induct the unofficial respondents into possession for extraneous consideration. Hence, the petitioner is left with no other alternative remedy except to approach this Court, assailing the order, dated 17.09.2018, passed in C.C.No.1294 of 2018, under Article 226 of the Constitution of India. He further contends that there are other writ petitions and Second Appeal pending between the parties and there is the need to club all the matter together for just disposal of the matters.

5) As culled out from the record, the unofficial respondents filed a civil suit for injunction, which was numbered as O.S.No.418/1996, on the file of the I Additional Senior Civil Judge, Ranga Reddy District; the same was decreed on 26.03.2007.

Aggrieved by the same, the vendors of the unofficial respondents filed first appeal which was numbered as A.S.No.17/2008, before the I Additional District Judge, Ranga Reddy District; the said First Appeal was allowed on 14.06.2011. Aggrieved by the judgment and decree passed in the first appeal, the unofficial respondents filed a Second Appeal before this Court, which was numbered as S.A.No.1168 of 2011. Along with the said Second Appeal, they have also filed SAMP No.2703 of 2011 for *ad interim* injunction, which was granted by this Court on 28.09.2011. Seeking enforcement of the order, dated 28.09.2011, SAMP No.2159/2017 was filed and the same was ordered by this Court on 16.04.2018 granting police aid for implementation of the interim injunction order. Alleging violation and willful disobedience of the order, dated 16.04.2018, passed in SAMP No.2159/2017, the unofficial respondents have filed C.C.No.1294 of 2018 wherein a learned Single Judge has passed the order, dated 17.09.2018. On 28.09.2011, this Court in SAMP No.2703/2011 in SA No.1168 of 2011 has passed the following order:

Having regard to the fact that pending the suit before the trial court, there was a temporary injunction operating in favour of the appellants and even during the pendency of the appeal there was no suppression of the decree of the trial court, there shall be interim suspension as prayed for.

Notice.

6) Seeking implementation of the order, dated 28.09.2011, passed in SAMP No.2703/2011 by granting police aid, SAMP No.2159/2017 has been filed wherein the following order, dated 16.04.2018, has been passed:

Heard.

Among the appeal respondents, only the respondents 1, 2, 4, 5, 8, 9, 10, 12 & 18 are appearing. So far as the other

respondents are concerned, against respondents 3 and 15 since died abated for no steps taken and so far as the respondents 6, 7, 11, 13, 14, 16, 17 & 19 the appeal is dismissed for default on 28.03.2017. Therefore, any ex parte interim order of injunction granted is in operation only against the respondents 1, 2, 4, 5, 8, 9, 10, 12 & 18 and not against other concerned in view of the above. Respondents 8 to 10, 12 & 18 supra filed vacate petition, but for no representation the vacate petition was dismissed and the injunction was made absolute by docket order of another bench of this Court dated 04.03.2013.

Having regard to the above, the police aid application is allowed to implement the said interim injunction only against the respondents 1, 2, 4, 5, 8, 9, 10, 12 & 18 directing the Station house Officer, Dundigal Police Station, Cyberabad, Medchal District.

No doubt, it is the counter of the respondents 2, 4 & 5 that they are no way interfering. Once they are no way interfering, there is nothing to oppose the police aid application to protect the injunction order concerned, but for to say they cannot be called by police and harass in any manner, unless there is interference to prevent.

7) Alleging willful disobedience of the above order, dated 16.04.2018, Contempt Case No.1294 of 2018 was filed, wherein this Court passed the order, dated 17.09.2018, relevant portion of which reads as under:

Undisputedly, the SA is pending and undisputedly pending the SA, there is a temporary prohibitory injunction order against the defendants i.e., respondents to the SA. A prohibitory injunction is practically to maintain the existing status quo as on date of injunction order passed and not to restore status quo anti for not a mandatory injunction relief.

The police once there is a order of Court granting injunction and there is a direction to provide police aid for implementation of the prohibitory injunction for any dispossession of them, they are bound to provide police aid. Needless to refer to the reply affidavit in denying the same of the counter affidavit with photos also filed by the petitioners to the contempt petition against the so called contemnor respondent police officer.

It is made clear that the respondent shall provide necessary police aid as and when required by the petitioners to see that the defendants or any others on behalf of the defendants shall not interfere in any manner to dispossess the petitioners from the property pending disposal of the said SA unless there is a modified order passed in the second appeal.

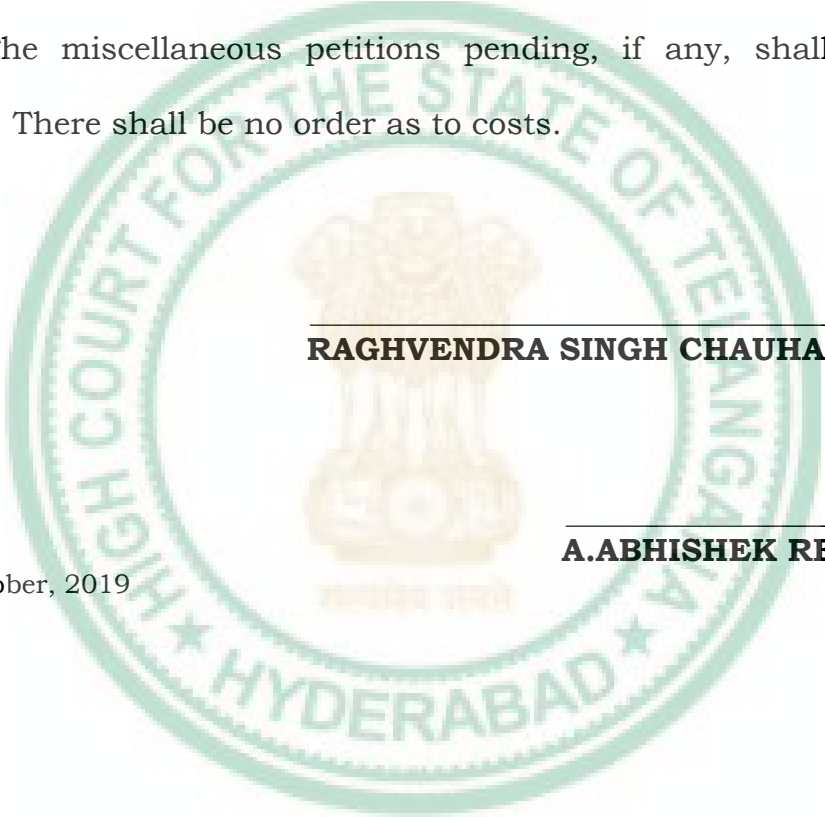
8) After hearing the parties and going through the record, the Writ Petition has to fail for the following reasons:

The Petitioner-Society, if they are so aggrieved by the orders of injunction passed by this Court in SAMP No.2703/2011, can always implead themselves in the Second Appeal No.1168 of 2011 and get the interim stay vacated. The learned counsel for the petitioner, when enquired, has stated that the petitioner-Society has already filed implead petition in the Second Appeal. However, no orders are passed therein. In such a situation, it is for the petitioner to pursue the implead petition filed by them to implead themselves and get the interim injunction order vacated or if they are in actual physical possession of the lands in question, they can protect their possession by filing a separate suit for injunction before a competent civil Court, if they are so advised. Undoubtedly, any injunction order granted by a Court is binding only on the parties to the said litigation, and not the persons who are not parties to the said suit/litigation. When the petitioner-Society is not a party to the Second Appeal, it cannot seek a direction to set aside the orders passed in Contempt Case arising out of the Second Appeal, for the simple reason that the interim injunction order passed by this Court in SAMP No.2703 of 2011 is still subsisting, the order, dated 17.09.2018, passed in Contempt Case No.1294 of 2018, impugned in the Writ Petition, is only a consequential one. Undoubtedly, the appellants in the Second

Appeal, who have an interim injunction order in their favour, are only seeking police protection for implementation of the said injunction order granted by this Court; the same cannot be found fault with more particularly when the order of interim injunction is in subsistence.

9) For the above said reasons, we see no infirmity or illegality in the impugned order, the writ petition is liable to be dismissed and is accordingly dismissed.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.



RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

23rd October, 2019
smr/sur