

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.5311 of 2018

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed aggrieved by the order and decree, dated 09.07.2018, passed in C.M.A.No.1 of 2018 by the III Additional District Judge, Gadwal, whereby an order, dated 17.01.2017, passed in I.A.No.4 of 2014 in O.S.No.3 of 2014, by the Junior Civil Judge, Alampur, was confirmed and C.M.A. was dismissed.

2. Heard the learned counsel for the revision petitioners/appellants/defendants, learned counsel for the respondents 1 and 2/respondents/plaintiffs 1 and 2 and perused the record.

3. Learned counsel for the revision petitioners/appellants/defendants would contend that the revision petitioners are in possession of part of subject suit land and to substantiate the same, there is a document i.e., Ex.R.2-copy of legal notice, dated 05.09.2013, issued by respondents /plaintiffs, wherein it is stated that the revision petitioners are in possession of part of subject suit land. But, the Court below did not advert to the same and erroneously dismissed the appeal confirming the order, dated 17.01.2017, passed in I.A.No.4 of 2014 in O.S.No.3 of 2014 by the Junior Civil Judge, Alampur. It is further stated that the findings recorded by both the Courts

below are perverse and ultimately prayed to set aside the impugned order.

4. On the other hand, learned counsel for respondents/ /plaintiffs would contend that the Court below by placing reliance on several documents namely, Exs.P.1 to P.51, filed by the respondents/plaintiffs, held that respondents/plaintiffs are in possession of the subject suit land admeasuring Ac.2.23 gunas in Survey No.436. He further stated that the recitals mentioned in Ex.R.2, copy of legal notice, dated 05.09.2013, can be examined during the course of trial of the subject suit. It is further stated that the Court below rightly passed the impugned order and there are no grounds to set aside the same and ultimately, prayed to sustain the impugned order.

5. As seen from the record, the respondents /plaintiffs filed the subject suit for Perpetual Injunction. Along with the suit, they also filed I.A.No.4 of 2014 under Order XXXIX Rules 1 and 2 C.P.C. seeking temporary injunction restraining the revision petitioners/defendants from interfering with their peaceful possession and enjoyment over the disputed subject suit land. To substantiate the case of the respondents/plaintiffs that they are in peaceful possession and enjoyment over the subject land, filed several documents in I.A.No.4 of 2014, namely Exs.P.1 to P.51, in which Exs.P.1 to P.8 are certified copies of Adangal/pahani, Exs.P.9 to P.11 are pattadar books; Exs.P.12 to P.41 are Meeseva copies of Adangal/pahani and Exs.P.42 to P.51

are the Tax receipts, which show that the respondents/plaintiffs are in possession of the subject suit land.

6. Since the documents viz., Exs.P.1 to P.51 would *prima facie* establishes the possession of the respondents/plaintiffs over the suit schedule property, both the Courts below held that there is *prima facie* case and balance of convenience in favour of the respondents/plaintiffs and granted temporary injunction in favour of the respondents/plaintiffs. The findings recorded by both the Courts below are based on the documents available on record. The Court below has rightly exercised its discretion in passing the impugned order. There is no infirmity or perversity found in the impugned order. There is nothing to take a different view. Hence, the Civil Revision Petition is devoid of merit and the same is liable to be dismissed.

7. Accordingly, the Civil Revision Petition is dismissed.

Miscellaneous petitions, if any, pending in this revision petition shall stand closed. There shall be no order as to costs.

14th November, 2019

YVL

Dr. SHAMEEM AKTHER, J

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Date:14.11.2019

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