

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.6494 of 2018

ORDER :

Heard the counsel for petitioner.

2. This Revision is filed by petitioner assailing the order dt.24.08.2018 and 11.09.2018 passed in I.A.No.884 of 2018 in I.A.No.370 of 2018 in O.S.No.175 of 2018 on the file of V Additional Junior Civil Judge, Kukatpally, at Prashanti Nagar.

3. The petitioner herein is plaintiff in the above suit.

4. He filed the said suit against respondent for a perpetual injunction in respect of the subject properties.

5. Along with the suit, the petitioner filed I.A.No.370 of 2018 under Order XXXIX Rules 1 and 2 of Civil Procedure Code, 1908 for an *ex parte ad interim injunction*.

6. Such order was granted without notice to respondent by the Court below on 07.06.2018 for a period of fifteen (15) days.

7. On 18.06.2018, the respondent appeared and requested time to engage a counsel and engaged a counsel on 29.06.2018.

8. Thereafter, counter was filed by respondent on 10.07.2018, and the matter was posted to 12.07.2018, for enquiry.

9. On 12.07.2018, at request of counsel for petitioner, the I.A. was adjourned to 16.07.2018.

10. The petitioner then filed I.A.No.666 of 2018 under Order XXVI Rule 9 of Civil Procedure Code, 1908 in I.A.No.370 of 2018 to appoint an Advocate-Commissioner to demarcate the suit schedule property; and also to record the physical features of the suit plot.

11. To this I.A., the respondent filed counter on 07.08.2018.

12. Thereafter, the petitioner marked Exs.P.1 to P.34, and respondent marked Exs.R.1 to R.34 on 20.07.2018.

13. When I.A.No.666 of 2018 was posted to 24.08.2018 for orders, the petitioner filed I.A. under Section 151 of Civil Procedure Code, 1908 to re-open I.A.No.666 of 2018.

14. The respondent filed counter on 29.08.2018 to the said I.A., and also submitted arguments.

15. The petitioner again requested for time, and it was adjourned to 04.09.2018.

16. In the meantime, petitioner filed I.A.No.884 of 2018 seeking extension of the interim injunction granted in his favour on 07.06.2018.

17. The Court below held that it was supposed to dispose of the application under Order XXXIX Rules 1 and 2 of Civil Procedure

Code, 1908 within thirty (30) days from the date of grant of *ex parte injunction* in favour of petitioner; that as per the decision of the Supreme Court rendered on 19.09.2000 between **A. Venkata Subbaiah Naidu vs. Chellappan and others**¹, if an injunction was granted without giving notice to opposite party, Court should decide the application within thirty (30) days from the date on which the injunction was granted; and if it was unable to do so, it shall record the reasons for such inability; otherwise action would be taken against the Judicial Officer including making recommendation to take steps to take adverse entry in the Officer's ACRs; and since the petitioner is not co-operating with the disposal of I.A.No.370 of 2018, it is vacating the injunction order dt.07.06.2018.

18. Challenging the same, the present Civil Revision Petition is filed.

19. Though the counsel for petitioner contended that the petitioner is willing to co-operate with the Court below for disposal of I.A.No.370 of 2018, having regard to the reasons recorded by the Court below, and the conduct of petitioner in trying to get the *ex parte interim injunction* order extended without co-operating with the Court below for disposal of the said I.A. within thirty (30) days, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

¹ (2000) 7 S.C.C. 695

20. Therefore, the Revision fails and it is accordingly dismissed.

No order as to costs.

21. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 05.02.2019

Ndr/*

