

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.7223 of 2018

ORDER :

Heard Sri A. Sudarshan Reddy, Senior Counsel appearing for petitioners in the Civil Revision Petition on behalf of Sri K. Ramakrishna, and the learned Government Pleader, appearing for respondent nos.1 to 3.

2. The petitioners herein filed O.P. under Section IX of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 before the said Tribunal constituted under the Abolition of Jagir's Act-cum-Chief Judge, City Civil Court, at Hyderabad to declare that they are persons rightly entitled to claim ownership rights over the suit schedule property, for permanent injunction restraining the respondents from interfering with their peaceful possession and enjoyment of the said property ; and to remove any illegal structures or encroachments made by persons claiming through the respondents.

3. Along with the said O.P., the petitioners filed Interlocutory Application No.983 of 2017 under Order 39 Rule 1 and 2 of Civil Procedure Code, 1908 for an interim injunction restraining the respondents from interfering with their alleged possession and enjoyment of the suit schedule property, and also from altering the nature of the subject property pending disposal of the O.P.

4. The Court below rejected the same by order dt.26.07.2017.

5. In the said order passed by the Court, it relied upon the order dt.27.04.2001 in Writ Petition No.18318 of 1994 and batch which indicated that petitioners had earlier filed Original Suit No.919 of 1992 for permanent injunction against respondents; though the said suit was disposed of by the V Assistant Judge, City Civil Court, Hyderabad, the appeals filed against it were allowed by the High Court on 27.04.2001, and S.L.Ps preferred against the said judgment of the High Court were dismissed by the Supreme Court; that when the litigation earlier initiated by petitioners with regard to title and possession over the suit schedule property were disposed of by the High Court and the Supreme Court, the petitioners on the same facts have filed the present Original Petition. It also observed that whether the previous proceedings operate as *res judicata* or not in regard to the instant proceedings would be seriously considered; and having regard to the said orders, the petitioners failed to make out *prima facie* case in their favour, while the respondents were able to establish that the property is Government land in Revenue Records; and that there was a finding in the earlier proceedings that the suit schedule property is Government land.

6. Assailing the same, the present Civil Revision Petition is filed.

7. Though the counsel for petitioners sought to contend that certain G.O.s were relied upon by respondents in the earlier proceedings, viz., Original Suit No.919 of 1992, but were never produced by respondents and they have been produced in the present

litigation, and it is the contention of petitioners that those G.O.s were in fact never issued, these aspects, in my opinion, cannot be gone into in this application and would have to be gone into the Original Petition by the Court below.

8. Since Original Suit No.919 of 1992 earlier filed by petitioners for permanent injunction had already been rejected, and the same had been confirmed up to Supreme Court, the petitioners cannot claim that they have *prima facie* case in their favour and that they are entitled to temporary injunction, pending suit.

9. I therefore do not find any error of fact or law in the impugned order warranting interference by this Court with it.

10. However, the Court below shall decide the Original Petition uninfluenced by any observations made by it in the impugned order or in the order passed in this Revision, as expeditiously as possible.

11. Accordingly, the Civil Revision Petition is disposed of as above. No order as to costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 02.08.2019

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