

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.7243 of 2018

ORDER:

This Revision is filed assailing the order dt.05-10-2018 in C.M.A. (SR) No.9019 of 2018 passed by the Principal District Judge, Warangal.

2. Petitioner is appellant in the said appeal.
3. The respondent filed the suit O.S.No.917 on the file of the VII Additional Junior Civil Judge, Warangal for permanent injunction restraining the petitioner from interfering with his alleged peaceful possession and enjoyment of the plaint schedule property.
4. Along with the suit, the respondent filed I.A.No.796 of 2018 under Order 39 Rule 1 and 2 C.P.C. to restrain, pending suit, the petitioner from interfering with his possession and enjoyment of the plaint schedule property.
5. An *ex parte ad interim* injunction was granted on 12-09-2018 by the trial Court.
6. Without approaching the trial Court by way of counter and seeking vacation of the said injunction, petitioner filed C.M.A.(SR) No.9019 of 2018 before the Principal District Judge, Warangal on 24-09-2018.
7. The Court below rejected the same stating that petitioner could have as well filed an application within the 30 days period to vacate

the said injunction or he could have contested I.A.No.796 of 2018. It also opined that the trial Court did not violate Order 39 Rule 3A C.P.C.

8. Assailing the same, this Revision is filed.

9. Learned counsel for the petitioner contended that the impugned order is erroneous and that the said appeal is maintainable. However, he also stated that petitioner had since filed a counter-affidavit in I.A.No.796 of 2018, but the Court below is not taking up the said I.A.

10. Since admittedly petitioner had filed counter-affidavit in I.A.No.796 of 2018, I do not deem it appropriate to interfere with the order dt.05-10-2018 in C.M.A. (SR) No.9019 of 2018, and hereby direct the VII Additional Junior Civil Judge, Warangal to decide I.A.No.796 of 2018 within three (03) weeks from the date of receipt of copy of this order, after hearing the respondent.

11. The Civil Revision Petition is disposed of with the above directions. No costs.

12. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 04-02-2019

Note :- Issue C.C. by 08-02-2019.

B/o.

Vsv