

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.6392 of 2017

ORDER :

Heard both sides.

2. This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.10.08.2017 passed in Civil Miscellaneous Appeal No.1 of 2016 on the file of Senior Civil Judge, at Narayanpet, confirming the Order dt.04.01.2016 passed in Interlocutory Application No.42 of 2014 in O.S.No.14 of 2014 on the file of Junior Civil Judge, Kodangal.

3. The petitioners herein are defendants in the above suit.

4. The respondent / plaintiff filed the said suit against petitioners alleging that he is the owner and possessor of the suit schedule property of an extent of 0.25 guntas having purchased it under a registered sale deed dt.06.11.2000; that he had also obtained pattadar pass book and title deed for the said land; and that petitioners were attempting to dispossess him from the said land.

5. Written Statement was filed by petitioners opposing grant of relief to respondent in the suit, contending that to the northern side of the suit schedule property petitioners have their house, but the registered sale deed under which the respondent claims did not contain this, and showed it as *paanadi*. They contended that under the guise of the suit for injunction, it is the intention of respondent to grab

their property which is adjacent to the suit schedule property. They also contend that respondent had suppressed mention of the house of petitioners and their cattle-shed, and filed the suit. It was also denied that petitioners interfered with the possession of the respondent on 02.05.2014.

6. Along with the suit, the respondent filed I.A.No.42 of 2014 under Order XXXIX Rules 1 and 2 of Civil Procedure Code, 1908 for temporary injunction against petitioners.

7. On 04.01.2016, the said I.A. was allowed by the Court below.

8. After considering the contentions of both sides and the documentary evidence filed by them, it noted that petitioners did not dispute the ownership or possession of respondent over the suit schedule property. It also opined that petitioners did not file any documentary evidence in support of their plea that they have property adjacent to the suit schedule property. It observed that the question whether wrong boundaries are mentioned in the sale deed relied upon by respondent is a matter to be gone into in the trial, and cannot be decided at the preliminary stage of considering the interim injunction application; and therefore, since there was a standing crop on the land, the respondent was entitled to temporary injunction, pending suit.

9. Challenging the same, the petitioners filed Civil Miscellaneous Appeal No.1 of 2016 to the Senior Civil Judge, at Narayanpet.

10. The said Court dismissed the appeal by order dt.10.08.2017, reiterating the reasoning of the Trial Court.

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

12. The counsel for petitioners contended that the findings of the Court below cannot be sustained, and that the Courts below did not consider the issue about respondent showing wrong boundaries in the plaint schedule; and that under the guise of interim injunction granted to him, the respondent interfered with the possession and enjoyment of petitioners' over the suit schedule property.

13. The counsel for respondent on the other hand refuted the said contention and supported the order passed by the Courts below.

14. Both the Trial Court as well as the Appellate Court have, after considering the evidence on record, concurrently found that the title and possession of respondent over the suit schedule property was admitted by petitioners, and therefore, held that respondent was entitled to *ad interim injunction*, pending suit.

15. These concurrent findings of fact of the Courts below have not been shown to be erroneous by the counsel for petitioners.

16. Therefore, I do not find any error of jurisdiction in the orders passed by the Courts below warranting interference by this Court in exercise of its jurisdiction under Article 227 of the Constitution of India with them.

17. Therefore, the Civil Revision Petition is dismissed.

18. However, the Trial Court shall proceed to decide the suit uninfluenced by any observations made in its order dt.04.01.2016 passed in Interlocutory Application No.42 of 2014 in O.S.No.14 of 2014 on the file of Junior Civil Judge, Kodangal, or that of the order dt.10.08.2017 passed in Civil Miscellaneous Appeal No.1 of 2016 on the file of Senior Civil Judge, at Narayanpet; or by this Court in this Civil Revision Petition, within a period of eight (08) months from the date of receipt of copy of this order.

19. Accordingly, the Civil Revision Petition is dismissed as above.
No order as to costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 25.06.2019

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