

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.7458 of 2018

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.17.07.2018 passed in I.A.No.306 of 2018 in A.S.No.90 of 2018 on the file of VIII Additional District and Sessions Judge, Ranga Reddy District, at L.B. Nagar, Hyderabad.

2. The petitioner herein is plaintiff in the suit O.S.No.338 of 1999 on the file of the Principal Junior Civil Judge, West and South, Ranga Reddy District, at Saroornagar. Later, the said suit was transferred to the Court of the I Additional Junior Civil Judge, Ranga Reddy District at L.B. Nagar, and renumbered as O.S.No.2251 of 2009.

3. In the suit, the petitioner had sought relief of perpetual injunction restraining the defendants therein / respondents nos.1 to 6 from interfering with his alleged peaceful possession and enjoyment of the suit schedule property.

4. After contest, the suit was decreed with costs on 29.01.2018.

5. Challenging the said judgment, the defendant nos.4 and 6 preferred A.S.No.90 of 2018 to the VIII Additional District and Sessions Judge, Ranga Reddy District at L.B. Nagar. They also filed I.A.No.306 of 2018 to suspend the operation of the judgment and decree dt.29.01.2018 in O.S.No.2251 of 2009.

6. By order dt.17.07.2018, the Court below allowed I.A.No.306 of 2018 and suspended the operation of the judgment and decree dt.29.01.2018 passed in O.S.No.2251 of 2009 of the I Additional Junior Civil Judge, Ranga Reddy District till the disposal of the appeal.

7. In the affidavit filed in support of the said application, it was contended that the trial court had relied on Exs.A.1 to A.20 to support the alleged possession and title of petitioner over the suit schedule property; and Exs.A.1 to A.8 do not establish the case of petitioner, and other exhibits such as special notices of property, tax receipts and new assessment do not show the extent of land or boundaries of the property and the possession of the petitioner is not established. Reliance is also made on certain statements made in the evidence of PW.1 –(i) that petitioner was not aware of any document which he filed to establish his title over the property and (ii) that the plaint plan filed by him is not correct, and he cannot show the boundaries of the suit schedule property. It is contended that the evidence filed by respondent nos.1 and 2 / defendant nos.4 and 6 establishes their possession and enjoyment of the plaint schedule property, and that they are entitled to suspension of the judgment and decree passed by the Court below.

8. Counter-affidavit was filed to the said application by the petitioner opposing the relief sought in I.A.No.306 of 2018 and

placing strong reliance on the findings given in the judgment of the Trial Court in O.S.No.2251 of 2009.

9. After referring to the contentions of both sides, the Court below allowed on 17.07.2018, I.A.No.306 of 2018 in A.S.No.90 of 2018.

10. The Court below took note of the contentions of respondent nos.1 and 2 / appellants in A.S.No.90 of 2018 that the Trial Court did not consider properly the evidence adduced by the parties; that the said contention of respondent nos.1 and 2 has to be decided in the appeal, which is pending; and there is a necessity to suspend the operation of the judgment of the trial Court till the disposal of the appeal.

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

12. Sri D. Prakash Reddy, Senior Counsel appearing for petitioners, contended that the order passed by the Court below is bereft of reasons and since the Trial Court had given findings in favour of petitioner in the suit, the appellate court could not have suspended the said judgment.

13. The counsel for respondents however refuted the said contention and supported the order passed by the Court below.

14. From the facts narrated above, it is clear that petitioner had filed O.S.No.338 of 1999 in June, 1999 before the Principal Junior Civil Judge, West and South, Ranga Reddy District at Saroornagar and on

transfer to the Court of I Additional Junior Civil Judge, Ranga Reddy District was re-numbered as O.S.No.2251 of 2009.

15. The suit is for perpetual injunction against the respondents and was decreed on 29.1.2018.

16. In the affidavit filed by petitioner in I.A.No.1 of 2018 seeking suspension of the order dt.17.07.2018 in I.A.No.306 of 2018 in A.S.No.90 of 2018 or in the judgment and decree dt.29.01.2018 in O.S.No.2251 of 2009, there is no mention that there was an interim injunction granted in favour of the petitioner, pending suit.

17. Though the counsel for petitioner contended that there was a *status quo* order pending suit, copy of such order obtained by the petitioner pending the suit has not been filed and it is not even pleaded in the CRP.

18. Thus, from June, 1999, when the suit was filed till 29.01.2018, when it was decreed i.e., for more than eighteen years, there was no interim injunction in favour of petitioner, pending the suit.

19. Assuming for the sake of argument that there was *status quo* order pending the suit, it is settled law that in injunction applications, orders of *status quo* ought not to be passed without clarifying which party is in possession of the property, and this Court has frowned upon the same. (See **Chhirapareddi Veeramma and others vs. S.K.**

Mahboob¹, and Shakila Jamali and others vs. Zareena Begum and others²). So even if there is any status quo order passed pending suit, since it is not produced, there is no evidence that in the order petitioner's possession was mentioned.

20. Having regard to the fact that the findings of fact arrived at in the judgment rendered by the Trial Court in its judgment and decree dt.29.01.2018 in O.S.No.2251 of 2009 are under challenge and there is a serious contest raised by the respondent nos.1 and 2 therein, I am of the opinion that the appellate court did not commit any error of jurisdiction in suspending the injunction granted by it on 29.01.2018 in petitioner's favour for the first time, more than eighteen years after filing of the suit.

21. Though the counsel for petitioner sought to contend that the Court ought to have discussed the merits of the contentions of parties also in depth, I am of the opinion that the appellate court rightly did not did not discuss the merits of the matter since any expression of opinion by it on the merits at this stage might be considered by the parties to be a predetermination of the issues in the appeal.

22. I therefore do not find any error of jurisdiction passed by the Court below warranting interference by this Court in exercise of its jurisdiction under Article 227 of the Constitution of India.

¹ 1991 (1) ALT 366

² 2018 (1) A.L.D. 54

23. Accordingly, the Civil Revision Petition fails, and it is dismissed. No order as to costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 29.03.2019

Ndr/*

