

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.7867 of 2018

ORDER:

This Revision is filed by the petitioners challenging the order dt.13.08.2018 in CMA.No.9 of 2018 of the IV Additional District & Sessions Judge(FTC), Nagarkurnool, confirming the order dt.05.05.2018 in I.A.No.162 of 2018 in O.S.No.56 of 2018 of the Junior Civil Judge, Kollapur.

2. Petitioners herein are defendants in the suit O.S.No.47 of 2012 on the file of the Additional District Judge, Wanaparthy.

3. Respondent herein/plaintiff filed the suit O.S.No.56 of 2018 for Perpetual Injunction against the petitioners to restrain them from interfering with his alleged peaceful possession and enjoyment of the plaint schedule property. He contended that he is the owner and pattadar of the plaint schedule property having purchased under a registered Sale Deed dt.12.07.2017 executed by the VI Additional District Judge (F.T.C.), Nagarkurnool pursuant to a decree dt.22.09.2014 obtained by him in a Civil Suit against certain third parties. According to him, petitioners, who are neighbours, are interfering with his peaceful possession and enjoyment of the suit property since he refused to sell the suit schedule property to them.

4. Written statement was filed by the petitioners disputing the suit contentions and denying respondent's possession and enjoyment of the plaint schedule property.

5. According to them, the respondent entered into an oral Agreement to sell the suit schedule property to them and failed to perform his part of the said agreement and execute registered Sale Deed in their favour after he obtained a Sale Deed on 12.07.2017 in the civil suit filed against third parties. They contended that the respondent had in fact inducted them into possession of the plaint schedule property after receiving certain amounts from them and that the Tahsildar, Kodair enquired about the possession of the petitioner and recorded the same in a panchanama dt.03.11.2017; and they are in possession of the property and not the respondent. It is also alleged that there are Mango trees in the land.

6. Pending the suit, respondent filed I.A.No.162 of 2018 and sought an *ad-interim* injunction against the petitioners invoking Order XXXIX Rules 1 & 2 of CPC.

7. In the said I.A., respondent marked Exs.A1 to A19 and petitioners marked Exs.B1 to B6.

8. By order dt.05.05.2018 the Court below allowed the said I.A. It held that Exs.A1 to A19 proved *prima facie* possession of the respondent over the suit schedule property and that balance of convenience is also in favour of the respondent and if no *ad-*

interim injunction is granted to the respondent, irreparable loss and injury would be caused to him. It also gave a finding that plea of the petitioners that they had paid Rs.16,55,000/- to the respondent towards part sale consideration of the plaint schedule property is not established and that the said issue would be gone into during trial. It also held that there is no document to show that there was any agreement between the respondent and the petitioners to sell the plaint schedule property or that he delivered possession of the same to them and the Mandal Revenue Inspector, Kodair could not have drafted any panchanama and the same cannot be taken into consideration.

9. Assailing the same, petitioners filed C.M.A.No.9 of 2018 before the IV Additional District & Sessions Judge(FTC), Nagarkurnool.

10. The said Court also dismissed the CMA. It relied on Exs.A3 and A4, pattadar pass book and title deeds, issued to the respondent by the Revenue Department and drew the presumption under Section 6 of the A.P. Rights in Land and Pattadar Passbook Act, 1971 regarding correction of entries in the said documents and held that the petitioners did not adduce any such evidence to say that the order passed by the trial Court did warrant any interference.

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

12. Though Sri C.Damodar Reddy, Counsel appearing for the petitioners sought to contend that the finding recorded by both the Courts below warrant interference and that in fact the petitioners alone are in possession of the plaint schedule property, and that the respondent is not in possession thereof, this Court in exercise of its limited jurisdiction to interfere with the findings of fact cannot re-appreciate evidence and interfere with the same in exercise of its power under Article 227 of the Constitution of India. The findings of fact recorded by the Courts below about the possession of the petitioner cannot therefore be interfered with in this Revision.

13. Therefore, this Civil Revision Petition is disposed of directing the Junior Civil Judge, Kollapur, to decide the suit O.S.No.56 of 2018 on his file, uninfluenced by any observations made in its own order, or the order of the lower appellate Court or of this Court in this CRP, as expeditiously as possible. No order as to costs.

14. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

23rd January, 2019.

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