IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

TUESDAY ,THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION NO: 1014 OF 2020

Petition Under Article 227 of Constitution of India against the order dated 08-09-2020 in I.A. No. 108 of 2020 in A.S.No. 57 of 2020 on the file of the Court of the V Additional District Judge at Jangoan .

Between:

1. Gaddam Kavitha, W/o. Late Gaddam Narasimha, Aged 55 years, Occ Housewife, R/o. 4-9-37/1, Dharmakancha, Z. P. Colony, Jangaon Village, and Mandal, Warangal District
2. Gaddam Abbu Ramulu, S/o. Gaddam Narasimha, Aged 53 years, Occ Private Employee, R/o. 4-9-37/1, Dharmakancha, Z.P. Colony, Jangaon Village, and Mandal, Warangal District
3. Gaddam Dasaia, S/o. Gaddam Narasimha, Aged 47 years, Occ Private employee, R/o. 4-9-37/1, Dharmakancha, Z. P. Colony, Jangaon Village, and Mandal, Warangal District.
4. Gaddam Raju, S/o. Gaddam Narasimha, Aged 32 years, Occ Private employee, R/o. 4-9-37/1, Dharmakancha, Z. P. Colony, Jangaon Village, and Mandal, Warangal District.
5. Thota Sugunamma, D/o. Gaddam Narasimha, Aged 40 years, Occ Private employee, R/o. 4-9-37/1, Dharmakancha, Z. P. Colony, Jangaon Village, and Mandal, Warangal District.

...PETITIONERS

AND

1. Puli Swamy, S/o. Chandraiah, Aged about 40 years, Occ Business, R/o. 9th ward, near Z.P. High School,Jangaon Village, and Mandal, Warangal District
2. Puli Vijaya Laxmi, W/o. Mallesham, Aged about 40 years, Occ House Hold, R/o. 9th ward, near Z.P. High School, Jangaon Village, and Mandal, Warangal District

...RESPONDENTS

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the interim orders dated 08/09/2020 in I.A.108 of 2020 in A.S. No. 57 of 2020 on the file of the V Addl. District Judge at Jangoan by suspending the operation of the judgment and decree in O.S. No. 19 of 2008 on the of the Senior Civil Judge at Jangoan .

Counsel for the Petitioner: SRI D. V. CHALAPATHI RAO

Counsel for the Respondents: SRI J. KANAKAIAH

The Court made the following: ORDER

HONOURABLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION No.1014 of 2020

ORAL ORDER:

Heard learned counsel for petitioners Sri D.V.Chalapathi Rao and learned counsel for respondents Sri J.Kanakaiah.

2. Parties are referred to as arrayed in the suit.

3. O.S.No.19 of 2008 was instituted in the Court of Senior Civil Judge, Jangaon praying to declare the plaintiffs as owners and possessors of land to an extent of Ac5.2.30 guntas in Survey No.82/1, Yeshwanthpur village, recovery of possession and permanent injunction restraining defendants 1 and 2 from interference. The trial Court rendered judgment on 29.1.2020. The trial Court declared that plaintiffs are owners of the suit scheduled property and directed defendants to deliver possession of the said land within 60 days. It has rejected prayer to grant perpetual injunction. Accordingly, decree was made. Aggrieved by the said judgment and decree, defendants preferred A.S. No. 57 of 2020 in the Court of the V Additional District Judge (II Fast Track Court) Warangal at Jangaon.

4. In the said Appeal Suit, defendants filed I.A No.108 of 2020 under Order XLI Rule 5 read with Section 151 CPC praying to stay the operation of the judgment and decree. The first Appellate Court by order dated 8.9.2020 allowed the Interlocutory Application staying the operation of judgment and decree passed in O.S.No.19 of 2008 dated 29.1.2020. Hence, this revision by the plaintiffs.

5. Claiming to declare them as owners of the suit schedule land, plaintiffs sought further directions to hand over possession of the said land. Thus from the prayers sought in the suit and declaration and direction given by the trial Court, there is no dispute that defendants are in possession of the suit land.

6. In the appeal, defendants raised several grounds against the findings recorded by trial Court including claim of title by plaintiffs as vesting in Gaddam Narsimha, the legality and validity of the documents relied by the plaintiffs and appreciation of evidence by the trial Court. These are all matters for consideration of the first Appellate Court.

7. Pending consideration of the Appeal, Appellate Court, having satisfied that appellant made out prima facie case granted suspension of the judgment and decree of the trial Court.

8. The issue for consideration is whether the 1st appellate Court committed error in exercising its discretion to grant stay of operation of the judgment of trial Court pending appeal.

9. It is settled principle of law and needs no reiteration that the jurisdiction of the 1st appellate court is co-extensive with that of the trial court. In exercise of its appellate jurisdiction, the 1st appellate court can consider interlocutory applications to grant appropriate reliefs pending consideration of the appeal.

10. In exercise of its discretion, if the 1st appellate court passes interlocutory order suspending the operation of the judgment rendered by the trial Court, on a challenge under Article 227 of the Constitution of India, the scope of consideration is very

narrow. Supervisory jurisdiction under Article 227 of the Constitution of India is exercised to keep the Subordinate Courts within the bounds of their jurisdiction. When a suburdinate Court has assumed jurisdiction which it does not have and has failed to exercise a jurisdiction which it does have and the jurisdiction though available is being exercised by a Court in a manner not permitted by law and grave injustice had occasioned thereby, the High Court can exercise its supervisory jurisdiction and remedy the injustice caused to a party.

11.1. In **State Vs Navjot Sandhu**[1], on review of law on the subject, Supreme Court held as under:

> **"28.** Thus the law is that Article 227 of the Constitution of India gives the High Court the power of superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. This jurisdiction cannot be limited or fettered by any Act of the State Legislature. The supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of their authority and to seeing that they obey the law. The powers under Article 227 are wide and can be used, to meet the ends of justice. They can be used to interfere even with an interlocutory order. However the power under Article 227 is a discretionary power and it is difficult to attribute to an order of the High Court, such a source of power, when the High Court itself does not in terms purport to exercise any such discretionary power. ***It is settled law that this power of judicial superintendence, under Article 227, must be exercised sparingly and only to keep subordinate courts and tribunals within the bounds of their authority and not to correct mere errors.*** Further, where the statute bans the exercise of revisional powers it would require very exceptional circumstances to warrant interference under Article 227 of the Constitution of India since the power of superintendence was not meant to circumvent statutory law. ***It is settled law that the jurisdiction under Article 227 could not be exercised "as the cloak of an appeal in disguise".***
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> (emphasis supplied)

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[1] (2003) 6 SCC 641

11.2. In **Hindustan Petroleum Corpn. Ltd. v. Dilbahar Singh**[2], the Hon'ble Supreme Court held:

"28. Before we consider the matter further to find out the scope and extent of revisional jurisdiction under the above three Rent Control Acts, a quick observation about the "appellate jurisdiction" and "revisional jurisdiction" is necessary. Conceptually, revisional jurisdiction is a part of appellate jurisdiction but it is not vice versa. Both, appellate jurisdiction and revisional jurisdiction are creatures of statutes. No party to the proceeding has an inherent right of appeal or revision. An appeal is continuation of suit or original proceeding, as the case may be. The power of the appellate court is coextensive with that of the trial court. Ordinarily, appellate jurisdiction involves rehearing on facts and law but such jurisdiction may be limited by the statute itself that provides for the appellate jurisdiction. On the other hand, revisional jurisdiction, though, is a part of appellate jurisdiction but ordinarily it cannot be equated with that of a full-fledged appeal. In other words, revision is not continuation of suit or of original proceeding. When the aid of Revisional Court is invoked on the revisional side, it can interfere within the permissible parameters provided in the statute. It goes without saying that if a revision is provided against an order passed by the Tribunal/appellate authority, the decision of the Revisional Court is the operative decision in law. In our view, as regards the extent of appellate or revisional jurisdiction, much would, however, depend on the language employed by the statute conferring appellate jurisdiction and revisional jurisdiction.

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31. We are in full agreement with the view expressed in *Sri Raja Lakshmi Dyeing Works* [*Sri Raja Lakshmi Dyeing Works* v. *Ranganswamy Chettiar*, (1980) 4 SCC 259] that where both expressions "appeal" and "revision" are employed in a statute, obviously, the expression "revision" is meant to convey the idea of a much narrower jurisdiction than that conveyed by the expression "appeal". The use of two expressions "appeal" and "revision" when used in one statute conferring appellate power and revisional power, we think, is not without purpose and significance. ***Ordinarily, appellate jurisdiction involves a rehearing while it is not so in the case of revisional jurisdiction when the***

[2] (2014) 9 SCC 78

same statute provides the remedy by way of an "appeal" and so also of a "revision". If that were so, the revisional power would become coextensive with that of the trial court or the subordinate tribunal which is never the case. ....."

(emphasis supplied)

12. As on the date of decree, the defendants are in possession of the suit schedule land and in terms of decree they are required to hand over the possession. Having regard to undisputed fact of possession by the defendants, the first Appellate Court exercised its discretion to grant interlocutory order pending appeal protecting the possession. No case is made out for this Court to upset the view taken by the 1st appellate Court. I do not see any error in exercising the discretion.

13. Learned counsel for plaintiffs further submitted that defendants received compensation under the Land Acquisition Act, 2014 against the very same land declared as owned by the plaintiffs and said amount be directed to be deposited in the Court or in a fixed deposit account.

14. Admittedly, defendants have already received compensation in lieu of land acquisition much before judgment was rendered by the trial Court. Payment of the amount of compensation on the land acquired by the Government for widening of national highway received by defendants depends on the final adjudication in the Appeal Suit and at this stage, defendants cannot be mandated to pay the amount. However, it is needless to observe that if the appellate Court dismisses the Appeal Suit, plaintiffs are entitled to claim entire amount so received by the defendants with interest as determined by the

Appellate Court. However, in order to protect the interest of plaintiffs, defendants are directed not to change the physical features and /or create third party interest in the suit schedule land pending disposal of Appeal Suit No.57 of 2020 on the file of the V Additional District Judge (II Fast Tract Court) Warangal at Jangaon.

15. The revision petition is accordingly disposed of. No costs. Miscellaneous petitions, if any stands closed.

Sd/-K.SAILESHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The V Additional District Judge (II Fast Track Court) Warangal at Jangoan
2. One CC to SRI D. V. CHALAPATHI RAO, Advocate [OPUC]
3. One CC to SRI. J. KANAKAIAH, Advocate [OPUC]
4. Two CD Copies

HIGH COURT

PNRJ

DATED:29/12/2020



ORDER

CRP.No.1014 of 2020

DISPOSOING OF THE CRP WITHOUT COSTS

SW
5 copies
Dr 07/01/2021