

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.1865 OF 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the revision petitioners/plaintiffs aggrieved by the order, dated 19.06.2019, passed in I.A.No.118 of 2016 in I.A.No.51 of 2015 in O.S.No.20 of 2015 by the Additional Junior Civil Judge, Jangaon, wherein the Court below has dismissed the subject Interlocutory Application filed by the revision petitioners/plaintiffs, under Section 151 of the Code of Civil Procedure, 1908, seeking to grant police aid by directing the Station House Officer, Bachannapet, to provide police protection for implementation of the injunction order granted on 19.11.2015 in I.A.No.51 of 2015 in the subject Suit.

2. Heard the learned counsel for both sides and perused the record.

3. Learned counsel for the revision petitioners/plaintiffs would submit that in spite of the *ad-interim* temporary injunction order being granted in favour of the revision petitioners/plaintiffs vide order, dated 19.11.2015, in I.A.No.51 of 2015 in the subject Suit, still there is interference by the respondents/defendants. Therefore, it is necessary to provide police aid to protect the rights and possession of the revision petitioners/plaintiffs over the suit schedule properties. The Court below had observed that the revision petitioners/plaintiffs *prima facie* could not establish the interference by respondents/defendants, which is erroneous

and ultimately, prayed to allow the Civil Revision Petition by setting aside the impugned order.

4. On the other hand, learned counsel for the respondents/defendants would submit that the respondents/defendants are in possession of the suit schedule properties. No interference, as alleged, is made by the respondents/defendants. No application of this nature is required to be allowed and the Court below is justified in dismissing of the subject Interlocutory Application and ultimately, prayed to dismiss the Civil Revision Petition.

5. In view of the submissions made by both the parties, the point that arises for determination is as follows:

“Whether police aid, as sought in the subject Interlocutory Application, can be granted in favour of the revision petitioners/ plaintiffs?”

6. It is apt to state that in Gangupanthula Ranga Rao v. Bathula Laxmaiah and others¹, in paragraph No.6, it is held as under:

“6. POINT: As has been held by this Court in Syed Sadullah Hussaini’s case MANU/AP/0985/2016 : 2017 (1) ALT 553(supra), there is no denial of the legal position that the Court cannot deny the relief of police-aid for implementation of an ad-interim order and in the matter of implementation, there is no difference between an ad-interim order and an injunction order passed after enquiry. If the Court finds that the respondent tried to meddle with the property in spite of ad-interim order, it can as well grant police-aid and to

¹ 2019 (1) ALD 411

that extent there is no demur. However, as rightly held by a learned Single Judge of this Court in Vanga Buchi Reddy's case MANU/AP/0237/2004 : 2004 (4) ALT 267 : 2004 (3) ALD 815 (Supra), it would not be proper for the Court to order police-aid to implement the ex parte order of injunction, when the defendants appeared and filed counter and seek to set aside the ex parte order.

(a) So from a conjunctive study of both the judgments of this Court, the conclusion that can be drawn is that there is no hurdle for a Court to implement an ad-interim injunction order when it finds that the respondent has intentionally violated the said order....”

7. In the instant case, the Court below, on hearing both sides, having come to a conclusion that the documents filed by the revision petitioners/plaintiffs reveal *prima facie* case and balance of convenience in their favour, vide order, dated 19.11.2015, in I.A.No.51 of 2015 in the subject Suit, granted *ad-interim* temporary injunction in favour of the revision petitioners/plaintiffs restraining the respondents/defendants from causing any sort of interference with the peaceful possession and enjoyment of the revision petitioners/plaintiffs over the suit schedule properties. Alleging interference by the respondents/defendants, the revision petitioners/plaintiffs filed the subject Interlocutory Application. The Court below, observing that the revision petitioners/ plaintiffs, except making a bare statement that the respondents/defendants are interfering with their peaceful possession and enjoyment over the suit schedule properties, have not placed any material on record to

substantiate the said contention, dismissed the subject Interlocutory Application, vide the impugned order.

8. It is to be noted that the revision petitioners/ plaintiffs need not be put to strict proof with regard to the alleged disobedience of the aforementioned *ad-interim* temporary injunction order, dated 19.11.2015, by the respondents/ defendants. The averments in the affidavit filed in support of the subject Interlocutory Application reveal the alleged interference. Further, the *ad-interim* injunction order, dated 19.11.2015, is passed after hearing both sides and the said order is still in subsistence. In view of the same, the contention of the respondents/defendants that they are in possession of the suit schedule properties is unsustainable. Under these circumstances, the revision petitioners/plaintiffs are required to be provided police aid, as prayed for in the subject Interlocutory Application.

9. Accordingly, the Civil Revision Petition is allowed and the impugned order, dated 19.06.2019, passed in I.A.No.118 of 2016 in I.A.No.51 of 2015 in O.S.No.20 of 2015 by the Additional Junior Civil Judge, Jangaon, is set aside and I.A.No.118 of 2016 is allowed. The Station House Officer, Bachannapet Police Station, is directed to provide police aid to the revision petitioners/plaintiffs to implement the order, dated 19.11.2015, passed in I.A.No.51 of 2015 in the subject Suit. In the given circumstances, the Court below is directed to dispose

of the subject Suit within a period of six (6) months from the date of receipt of a copy of this order.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

February 04, 2020.
MD

