

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.3112 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/plaintiff, challenging the order, dated 12.11.2019, passed in C.M.A.No.7 of 2019 by the V Additional District Judge at Bhongir, whereby, the order, dated 20.03.2019, passed in I.A.No.78 of 2016 in O.S.No.53 of 2016 by the Principal Junior Civil Judge, Ramannapet, was set aside and the temporary injunction granted in favour of the revision petitioner/plaintiff was vacated.

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

3. The learned counsel for the revision petitioner/plaintiff would contend that the suit schedule property admeasuring Ac.1.37 guntas in Survey No.264/3 of Peepalapahad Village, Choutuppal Mandal, Nalgonda District, had fallen to the share of the revision petitioner/plaintiff under Ex.P.1 registered Partition Deed bearing document No.757/1971, dated 23.06.1971. The revision petitioner/plaintiff has filed the original pattadar passbook No.219061 issued by the Tahsildar, Choutuppal, under Ex.P.3. Exs.P.4 to P.10 are the pahanies for the years 2010 to 2016 obtained from Meeseva. All these documents clinchingly establish the

lawful possession of the revision petitioner/plaintiff over the suit schedule property. The trial Court, having considered the same, was pleased to grant temporary injunction in favour of the revision petitioner/plaintiff. The Court below, without appreciating the said documents, was pleased to vacate the temporary injunction granted in favour of the revision petitioner/plaintiff, which is erroneous, and ultimately prayed to set aside the order under challenge and restore the order, dated 20.03.2019, passed in I.A.No.78 of 2016 in O.S.No.53 of 2016 by the Principal Junior Civil Judge, Ramannapet.

4. On the other hand, the learned counsel for the respondents/defendants would contend that the revision petitioner/plaintiff had filed the subject suit by suppressing the material facts. In fact, the respondents/defendants are in possession of the suit schedule property, having purchased the same long back from their vendors. The documents filed by the revision petitioner/plaintiff do not establish his title and possession over the suit schedule property. The dispute between the parties can only be determined after due trial of the suit. There is no *prima facie* case and balance of convenience in favour of the revision petitioner/plaintiff and he would not suffer irreparable loss if injunction is not granted in his favour. The Court below rightly vacated the temporary injunction granted in favour of the revision petitioner/plaintiff by the

trial Court. There is nothing to interfere with the order under challenge and ultimately prayed to dismiss the Civil Revision Petition.

5. In view of the above submissions, the point that arises for determination in this Civil Revision Petition is as follows:

“Whether the order, dated 12.11.2019, passed in C.M.A.No.7 of 2019 by the V Additional District Judge at Bhongir, setting aside the order, dated 20.03.2019, passed in I.A.No.78 of 2016 in O.S.No.53 of 2016 by the Principal Junior Civil Judge, Ramannapet, is liable to be set aside?”

6. A perusal of Ex.P.1-Certified copy of the Registered Partition Deed bearing document No.757/1971, dated 23.06.1971, reveals the partition and allotment of the suit schedule property in favour of the revision petitioner/plaintiff. Ex.P.3—Original pattadar passbook No.219091 issued by the Tahsildar, Choutuppal, and Exs.P.4 to P.10-Pahanies for the years 2010 to 2016 obtained from Meeseva, reflects the possession of the revision petitioner/plaintiff over the suit schedule property for the years 2010 to 2016 etc. A person seeking temporary injunction under Order XXXIX Rules 1 and 2 shall have a prima facie case and balance of convenience in his favour and should prove that if injunction is not granted in his favour, irreparable loss would be caused to him. The

material on record clinchingly establishes all these factors in favour of the revision petitioner/plaintiff. The conclusions reached by the Court below in C.M.A.No.7 of 2019 are without material and the findings recorded by the Court below are perverse. Therefore, the impugned order is unsustainable and the same is liable to be set aside.

7. Accordingly, the order, dated 12.11.2019, passed in C.M.A.No.7 of 2019 by the V Additional District at Bhongir, is set aside. Consequently, the order, dated 20.03.2019, passed in I.A.No.78 of 2016 in O.S.No.53 of 2016 by the Principal Junior Civil Judge, Ramannapet, is restored.

8. The Civil Revision Petition is, accordingly, allowed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

28th January, 2020
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