

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

CIVIL REVISION PETITION No.1326 of 2020

ORDER:

This Civil Revision Petition is filed by the petitioner/plaintiff challenging the order dated 01.10.2020 in E.P.No.122 of 2020 in O.S.No.60 of 2018 passed by the Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court, Bhadrachalam (hereinafter referred to as "the Court below").

Heard Sri K. Sarath, learned counsel for the petitioner/plaintiff and Sri R.R. Kalyan, learned counsel appearing for implead petitioners/respondent Nos.3 and 4. Despite service of notice, none appears for respondent Nos.1 and 2.

Learned counsel for the petitioner/plaintiff had contended that before passing impugned order dated 01.10.2020, no opportunity was given to the petitioner and without hearing the petitioner, the Court below has passed impugned order dated 01.10.2020. He further contends that after passing the judgment and decree dated 21.08.2018 in O.S.No.60 of 2018, the petitioner has filed E.P.No.122 of 2020 in O.S.No.60 of 2018 seeking police protection and the Court below was pleased to provide police protection vide order dated 24.06.2020. While the petitioner was enjoying the said

police protection, without hearing and without giving any opportunity to the petitioner, the Court below has mechanically closed E.P.No.122 of 2020 basing on the report submitted by the Tahsildar, Julurupadu, which report was called for behind the back of the petitioner. Learned counsel for the petitioner, therefore, contends that impugned order dated 01.10.2020 passed by the Court below is contrary to law and violative of the principles of natural justice and the same is liable to be set aside and the police protection granted to the petitioner vide order dated 24.06.2020 be restored and let the Court below pass orders in accordance with law after giving opportunity to the petitioner.

Sri R.R. Kalyan, learned counsel for implead petitioners/respondent Nos.3 and 4 would contend that respondent Nos.3 and 4 are actual owners of the subject land and without impleading them as defendants, the revision petitioner has filed suit O.S.No.60 of 2018 and obtained judgment and decree dated 21.08.2018. He would further contend that the revision petitioner is claiming the subject land through her vendor i.e., Smt. Miryala Seshamma, and the implead petitioners/respondent Nos.3 and 4 have filed O.S.No.199 of 1992 seeking perpetual injunction against the said Smt. Miryala Seshamma and one Parvathaneni Vijaya Kumar and the same was decreed in favour of the implead petitioners/respondent Nos.3 and 4 vide judgment and decree dated 23.12.1996 in O.S.No.199 of 1992 passed by the

Principal District Munsif, Kothagudem. As the revision petitioner has filed O.S.No.60 of 2018 against the property of implead petitioners without impleading them as defendants, the implead petitioners have filed un-numbered E.A.No. of 2020 in E.P.No.122 of 2020 in O.S.No.60 of 2018 before the Court below. Learned counsel for the implead petitioners, therefore, contends that let the Court below also hear E.A.No. of 2020 preferred by the implead petitioners and pass appropriate orders in accordance with law.

Despite service of notice, none appears for respondent Nos.1 and 2 herein and they were also remained exparte, both at the time of passing judgment and decree dated 21.08.2018 in O.S.No.60 of 2018 as well as while passing order dated 24.06.2020 in E.P.No.122 of 2020 in O.S.No.60 of 2018 providing police protection to the revision petitioner.

Having considered the rival submissions made by learned counsel for the respective parties, this Court is of the considered view that the Court below erred in closing E.P.No.122 of 2020 in O.S.No.60 of 2018 without giving any opportunity and without hearing the revision petitioner/plaintiff, which is contrary to law and violative of the principles of natural justice and on this ground alone, impugned order dated 01.10.2020 in E.P.No.122 of 2020 in O.S.No.60 of 2018 passed by the Court below is liable to be set aside and, it is accordingly, set aside and the police protection provided to the revision petitioner vide order dated

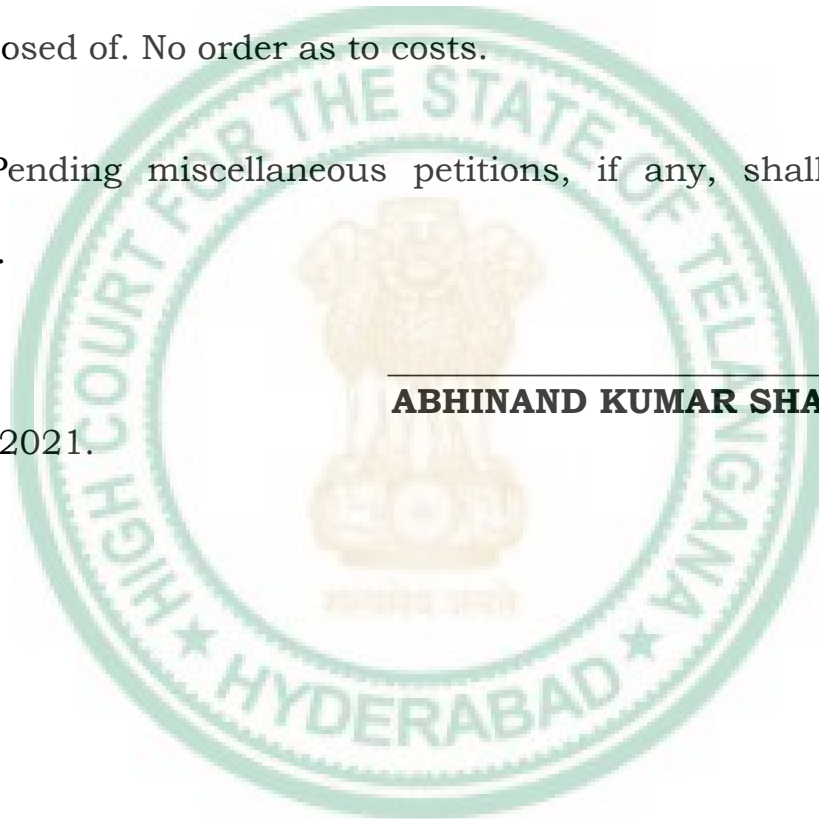
24.06.2020 stands restored. The Court below is directed to hear E.P.No.122 of 2020 in O.S.No.60 of 2018 along with un-numbered E.A.No. of 2020 in E.P.No.122 of 2020 in O.S.No.60 of 2018 and pass appropriate orders in accordance with law, after giving opportunity to both the revision petitioner as well as implead petitioners/respondent Nos.3 and 4.

With the above observations, this Civil Revision Petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

25.02.2021.
Msr

ABHINAND KUMAR SHAVILI, J



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