

**IN THE HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD**

**WEDNESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER  
TWO THOUSAND AND TWENTY TWO**

**PRESENT  
THE HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU**

**CIVIL REVISION PETITION NO: 3178 OF 2014**

Petition under Article 227 of Constitution of India, against the Order dated 02/09/2014 in IA No.207 of 2013 in OS No.289 of 2013 on the file of the Court of the Sub Divisional Magistrate, Mobile Court, at Bhadrachalam.

**Between:**

Srirangam Nirmala, W/o. (late) Krishna Kumar, Occ: House wife, R/o. H.No.12-2-2, Church Road, Bhadrachalam Town and Mandal, Khammam District.

**...PETITIONER/PETITIONER**

**AND**

1. Muggula Ravindra Prasad, S/o. (late) Suryanarayana, Occ: Business, R/o. H.No.3-1-46, TTD Road, Bhadrachalam, Khammam District.
2. Daram Venakta Reddy, S/o. D.Nagireddy, Occ: Business, R/o. H.No.2-153, Basappa Camp, Sarapaka, Burgamaphad Mandal, Khammam District.
3. Jampana Ramesh, S/o. (late) Basavaraju, Occ: Business, R/o. Temple Street, Bhadrachalam, Bhadrachalam Mandal, Khammam District.

**...RESPONDENTS/ RESPONDENTS**

**For the Petitioner : SRI P.V.RAMANA, Advocate**

**For the Respondent No.1 : SRI M.V.HANUMANTHA RAO, Advocate**

**For the Respondent Nos.2 & 3 : NONE APPEARED**

The Court made the following: ORDER

**HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU**

**C.R.P.NO.3178 of 2014**

**ORDER:**

Being aggrieved by the order of the learned Sub Divisional Magistrate, Badrachalam, dated 02-09-2014 in I.A.No.207 of 2013 in O.S.No.289 of 2013 by which the Court below disposed the Interlocutory Application with a direction to both parties to the petition to maintain *status quo*, the defendant No.3 in the said suit preferred the present Civil Revision Petition.

2. The said Interlocutory Application (I.A.No.207 of 2013) has been filed by the respondent No.1/plaintiff before the Sub-Divisional Magistrate, Badrachalam with a prayer to grant temporary injunction against two respondents/defendants No.1 and 2 in respect of House bearing Dr.No.12-2-2 at Church Road, Badrachalam, which herein after will be referred as Petition Schedule Property.

3. Soon after filing the said application, an *ex parte* temporary injunction was granted before the appearance of respondents. According to the allegations made in the petition, it was the case of the respondent/plaintiff that he is the absolute owner and possessor of the petition schedule property. He has

purchased the said house from the appellant herein under an unregistered sale deed dated 14-09-2011. He has been in possession and enjoyment of the property since the date of purchase. He is running a cloth business under the name and style of Sri Ravindra Cloth and Readymade Show Room. The respondent has alleged in the affidavit filed in support of the petition that respondents No.1 and 2 in the said petition made attempts to interfere with his possession over the property. In support of his claim, he has filed a copy of alleged unregistered sale deed, House Tax receipts and Electricity Bills. Respondents No.1 and 2 in the said Interlocutory Application did not choose to contest the petition and remained *ex parte*.

4. The appellant herein filed an application to implead her in the suit and Interlocutory Application, thereby, she was added as respondent No.3. She has filed counter denying all the averments made in the petition. She has claimed that she is absolute owner of the schedule property, she has been in possession of the same. Respondents No.1 and 2 to the Interlocutory Application are strangers, they are no way connected with the property. She has filed property tax receipts of the said,

certificate issued by Grampanchayat and sought for dismissal of the petition.

5. The learned Sub-Divisional Magistrate having heard both parties and perusing the record placed before him, came to a conclusion that the documents filed by respondent/plaintiff shows that he has purchased the schedule property from the respondent No.3 for a sum of Rs.6,00,000/- and obtained delivery of the property. The Tax receipts shows his possession over the schedule mentioned shop. Since the appellant herein could not file any documents to show as to how she acquired the property and opined both the parties failed to prove their independent possession, directed them to maintain *status quo* till the disposal of the suit.

6. The present revision is filed on the ground that the Court below failed to note that even though she is a necessary party, she was not made as party to the suit and respondent/plaintiff setup his own people as defendants to the suit and they did not contest the said suit. An ex parte injunction was granted without impleading the necessary parties. The lower Court failed to consider the house tax receipts, electricity bills, letter issued by the Electricity Department and Gram Panchayat

and simply on the basis of fake documents produced by the respondent/plaintiff passed an order directing them to maintain *status quo*. The revision petitioner has claimed that lower Court ought to have vacated the interim injunction without giving much weight to the document produced by the respondent/plaintiff. She has also claimed that in view of the Special Law existing in the schedule area including the petition schedule property, transfer of immovable property between non-tribes after 03-02-1970 is void and inspite of taking such a plea, the same was not considered by the learned Sub-Divisional Magistrate, thereby, she sought for setting aside the order and for dismissal of the injunction petition.

7. I have heard both parties.

8. Now the point for consideration is :

Whether the order of the Sub-Divisional Magistrate suffers from any infirmity and if so, it is liable to be vacated?

9. The learned counsel for the petitioner has submitted that the respondent No.1/plaintiff having setup his own men by showing them as respondent Nos.1 and 2 filed a false suit and sought to obtain an injunction on the basis of an un-registered sale deed. Even though the petitioner appeared before the Court on her own petition and produced sufficient proof, the Court below did not consider the arguments of the petitioner herein and directed

parties to maintain *status quo*, thereby, the same is liable to be vacated.

10. The learned counsel for the respondent/plaintiff supported the order of the Court below and submitted that the tax receipts and photographs filed by the respondent clearly shows his possession on the property thereby, he is entitled to injunction but the Court below directed the parties to maintain *status quo*, therefore, there are no merits in the revision and sought for dismissal of the petition.

11. As per the petition averments and other record placed before this Court, it is very clear that even as per the claim of the respondent/plaintiff, the petition schedule property originally belongs to the petitioner/respondent No.3. The record further shows that the respondent/plaintiff filed the main suit and Interlocutory Application by showing the unconcerned people as respondents in Interlocutory Application, and as defendants in main suit and they remain *ex parte*. It is also clear that the appellant herein having filed a petition, got herself impleaded to the suit proceedings and also to the injunction petition. The petitioner has specifically pleaded that she is the owner and in possession of the suit schedule property. In support of her claim,

she has produced tax receipts and as per the order, she has also produced certificate issued by Gram Panchayat and a letter from Secretary, Gram Panchayat dated 28-12-2013. The learned Sub-Divisional Magistrate having extracted the petition averments, averments made in the counter filed by the petitioner herein, simply held that the petitioner herein failed to prove her title on the schedule property. However, he has given much importance to the un-registered sale deed dated 14-09-2011 and concluded that the sale deed shows the respondent/plaintiff purchased the property for a sale consideration of Rs.6,00,000/-, and that the petitioner herein delivered the property. The learned Sub-Divisional Magistrate failed to appreciate that immovable property worth Rs.6,00,000/- cannot be transferred by way of an unregistered sale deed. It is the case of petitioner herein that such a transfer is prohibited, as the area falls under schedule area where sale of land between non-tribes is prohibited. It may be true that the respondent/plaintiff filed some tax receipts and photographs showing his cloth business but when the ownership by the petitioner herein is accepted, it is for the respondent/plaintiff to show how he got the title over the property and how he is inducted to the possession. It is easy for a person

to create an unregistered sale deed to claim right over the property and it is equally easy for the same person to obtain an injunction by showing two of his friends as respondents by filing a suit for injunction.

12. The Court has to see whether there was actual transfer of the property. In order to obtain an injunction, the respondent/plaintiff has to satisfy that he has got prima facie case, balance of convenience. Even if it is believed that the respondent is in possession, he is not entitled to an order against true owner. The learned Sub-Divisional Magistrate without saying anything about actual situation, directed the parties to maintain *statusquo*. The order itself shows that the petitioner herein filed house tax receipts obtained from Gram Panchayat, in addition to the certificate given in her favour. The learned Sub-Divisional Magistrate ought to have appreciated this fact. As per the certificate filed by the petitioner herein, the Secretary, Gram Panchayath certified that the petition schedule property is in the name of the petitioner herein. An order directing the parties to maintain status quo will not sustain unless there is a clear finding about the actual status at the schedule property. Therefore, there are no grounds for the Court to direct the parties to maintain

status quo without deciding that who is in possession of the property. Moreover, the documents filed by the petitioner indicates that the petitioner herein is the actual owner of the property, she has filed tax receipts. The alleged transfer of property worth more than Rs.6,00,000/- under an un-registered document cannot be accepted. Therefore for these reasons, the order of the learned Sub-Divisional Magistrate is not sustainable and it is liable to be vacated.

13. In the result, Civil Revision Petition is allowed. The order dated 02-09-2014 is set aside. The Court below shall dispose of the main suit without being influenced by the observations made in the application in the present revision.

Consequently, Miscellaneous applications if any, are closed.

There shall be no order as to costs.

//TRUE COPY//

Sd/-M.MANJULA  
DEPUTY REGISTRAR

  
SECTION OFFICER

To

1. The Sub Divisional Magistrate, Mobile Court, at Bhadrachalam.
2. One CC to Sri P.V.Ramana, Advocate [OPUC]
3. One CC to Sri M.V.Hanumantha Rao, Advocate [OPUC]
4. Two CD Copies

Kj.



HIGH COURT

DATED:28/09/2022



ORDER

CRP.No.3178 of 2014

CRP IS ALLOWED.

⑥  
VLV  
25/2/23