

HON'BLE SRI JUSTICE A.SANTHOSH REDDY

C.R.P.No.1910 of 2017

ORDER

This Civil Revision Petition is filed to set aside the docket order, dated 27.10.2015, passed in I.A.No.808 of 2015 in O.S.No.15610 of 2003 on the file of the VI Junior Civil Judge, City Civil Court, Hyderabad.

2. Heard learned counsel for the petitioner. None represented the respondents. Perused the record.

3. Respondent Nos.1 to 12/plaintiffs filed suit in O.S.No.15610 of 2013 against respondent Nos.13 to 19/defendants 1 to 7 for cancellation of registered sale deed dated 16.03.1968 executed by respondent Nos.14 to 16/defendant Nos.2 to 4 in favour of respondent No.13/defendant No.1. The said suit was decreed in favour of respondent Nos.1 to 12 vide judgment dated 20.01.2015. While so, respondent Nos.1 to 12 filed I.A.No.808 of 2015 under Section 151 of the Code of Civil Procedure (C.P.C.) to direct the Station House Officer, Golconda Police Station to provide police protection to protect their land covered in Sy.No.317 of Shaikpet Village and Mandal, Hyderabad against respondent Nos.3 to 19

in pursuance of the judgment and decree dated 20.01.2015 in O.S.No.15610 of 2003. The trial Court passed the order, dated 27.10.2015, which reads as under:

“Heard counsel for petitioner. On perusal of record it reveals that the sale deed was cancelled against respondent No.1 herein. Under such circumstances, the police aid has given for protection of the land in Sy.No.317 of Shaikpet Village against the 3rd parties. Hence, this petition is allowed. No costs.”

4. Aggrieved by the said order, the petitioner, who is third party to the suit, filed the present civil revision petition.

5. Learned counsel for the petitioner submits that the trial Court has passed the impugned order after passing the judgment and decree in O.S.No.15610 of 2003 without any jurisdiction. As such, the trial Court has become functus officio. He further submits that with the help of said order, respondent Nos.1 to 12 are trying to encroach the properties owned by the members of petitioner-Society. Therefore, he prays to set aside the impugned order.

6. The Apex Court in **Shalini Shyam Shetty v. Rajendra Shankar Patil**¹, at para No.44, held as under:

¹ (2010) 8 Supreme Court Cases 329

44. In para 38 sub-para (4) at SCC p. 695 of the Report, the following principles have been laid down in *Surya Dev Rai* [(2003) 6 SCC 675] and they are set out:

“38.(4) Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction.”

7. In the instant case, the impugned order discloses that the trial Court allowed the application in granting police aid for protection of the schedule property in O.S.No.15610 of 2003. Once the trial Court passed the judgment and decree in the main suit, it has become functus-officio. On the face of it, it can be said that the trial Court passed the impugned order beyond its jurisdiction. Therefore, the trial Court ought not to have entertained the application in I.A.No.808 of 2015 and it would have to reject the said application on the face of it. Therefore, the trial Court has committed jurisdictional error by granting police aid and thereby, the third parties, who is the petitioner, has encountered grave

injustice. Infact, the trial Court has assumed jurisdiction, which it does not have and it should not have been exercised in a manner prohibited by law. As contended by the learned counsel for the petitioner, respondent Nos.1 to 12, under the guise of the impugned order of police aid, tried to encroach and grab the plots of the petitioner-Society.

8. For the reasons aforesaid mentioned, I am of the view that the order under revision is not tenable and the same is liable to be set aside by invoking the powers under Article 227 of the Constitution of India.

9. In the result, the civil revision petition is allowed. The impugned order is set aside. Consequently, I.A.No.808 of 2015 stands dismissed. Miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

A.SANTHOSH REDDY, J

20.12.2022

Nvl

