

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**TUESDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SMT JUSTICE JUVVADI SRIDEVI

CIVIL REVISION PETITION NO: 470 OF 2023

Petition under Article 227 of the Constitution of India against the Order dated 12.01.2023 in IA.No.154 of 2022 in IA.No.281 of 2014 in O.S.No.385 of 2014 on the file of the Court of the Sub-Divisional Magistrate and Special Assistant Agent to Government Mobile Court at Bhadrachalam.

Between

Danekula Venkata Lakshmi Narasamma, W/o. Krishna Rao, Aged 46 years,
R/o. Jaggavaram Village, Dammapeta Mandal, Bhadradi Kothagudem District

...PETITIONER/PLAINTIFF

AND

1. Morampudi Krishnaiah (**Died**)
2. Morampudi Venkateswara Rao, S/o. Krishnaiah, Aged about 51 years,
R/o. Mandalapalli Village, Dammapeta Mandal, Khammam District - 507306.
3. Morampudi Narasimha Rao, S/o. Krishnaiah, Aged about 47 years,
R/o. Mandalapalli Village, Dammapeta Mandal, Khammam District - 507306.

...RESPONDENTS/DEFENDANTS

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in OS.No.385 of 2014 on the file of the Sub-Divisional Magistrate and Special Assistant Agent to Government Mobile Court at Bhadrachalam.

Counsel for the Petitioner: SRI S.V.RAMANA

**Counsel for the Respondent Nos.2 & 3: SRI VEDULA VENKATA RAMANA
SENIOR COUNSEL REP SRI B.CHAITANYA**

The Court made the following: ORDER

THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

CIVIL REVISION PETITION No.470 of 2023

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/plaintiff, challenging the order, dated 12.01.2023, passed in I.A.No.154 of 2022 in I.A.No.281 of 2014 in O.S.No.385 of 2014, by the Sub-Divisional Magistrate and Special Assistant Agent to Government Mobile Court at Bhadrachalam (for short, 'Agency Court'), whereby, the subject I.A.No.154 of 2022 filed by the petitioner/plaintiff under Order XXXIX Rule 2A of CPC r/w 42(c) of A.P.Agency Rules r/w Section 151 of CPC requesting the Court to detain the respondents/defendants in civil prison for disobedience of injunction order, was dismissed.

2. Heard Sri S.V.Ramana, learned counsel for the petitioner/plaintiff, Sri Vedula Venkata Ramana, learned senior counsel appearing for Sri D.B.Chaitanya, learned counsel for the respondent Nos.2 and 3/defendants and perused the record.

3. O.S.No.385 of 2014 is filed by the petitioner/plaintiff against the respondents/defendants seeking perpetual injunction in respect of the suit schedule property, i.e., land admeasuring

Acs.2.01 guntas in Sy.No.26/A of Mandalapalli Village, Dammapeta Mandal of Bhadradri-Kothagudem District. In the said suit, the petitioner/plaintiff filed I.A.No.281 of 2014 for grant of temporary injunction. *Ex parte ad-interim* injunction order was granted to the petitioner/plaintiff by the Agency Court on 10.11.2014. Subsequently, the respondents/defendants filed counter affidavits and upon hearing both the counsel, the *ex parte* injunction order was made absolute by the Agency Court on 19.04.2016. Assailing the said order, the respondents/defendants preferred CRP No.2123 of 2016 before this Court and this Court, vide order dated 02.09.2016, dismissed the revision. Thereafter, the petitioner/plaintiff filed I.A.No.181 of 2016 before the Agency Court seeking police protection and the said application was dismissed, vide order dated 30.11.2016. Assailing the same, the petitioner/plaintiff preferred CRP No.190 of 2017 before this Court and this Court, on hearing both sides, initially granted interim direction vide order, dated 16.04.2017, in I.A.No.1 of 2017 directing the Station House Officer, Dammapeta Police Station to provide police protection to the petitioner/plaintiff, pending disposal of CRP No.190 of 2017. Subsequently, the said CRP was disposed of finally on 29.11.2021 setting aside the order in I.A.No.181 of 2016, dated 30.11.2016, of the Agency Court and remitting the

matter to the Agency Court to dispose of I.A.No.181 of 2016 within a period of two months from the date of receipt of a copy of the said order. This Court also gave certain directions to the petitioner/plaintiff to file a better affidavit in I.A .No.181 of 2016. The Agency Court was also directed to take on record the additional documents filed by the petitioner/plaintiff and to give reasonable opportunity to the respondents to file their counter. This Court also directed the Agency Court to take into consideration the judgments of this Court in **Gampala Anthaiah Vs. Kasala Venkata Reddy (2014 (2) ALD 281); Satyanarayana Tiwari Vs. SHO, PS Santoshnagar (AIR 1982 AP 394); A. Bharathi Vs. State of Telangana (2017 (1) ALD 503); Sama Jana Reddy @ Jani Vs. Muppa Narsimha Reddy (2017 (2) ALD 584) and Kotak Mahindra Bank Ltd. Vs. Station House Officer, Madhapur PS, Cyberabad**, and other judgments, if any, cited by the parties and to pass orders either granting or refusing the police aid to the petitioner/plaintiff. The petitioner/plaintiff was also given opportunity to file an application for granting interim police protection as she had the benefit of interim order passed by this Court right from 16.04.2019.

4. After the matter was remitted to the Agency Court, the Agency Court passed order on 22.04.2022 dismissing the

application filed by the petitioner/plaintiff for grant of police protection. Aggrieved by the said order of dismissal, the petitioner/plaintiff preferred CRP No.1827 of 2022 before this Court and this Court, vide order dated 19.09.2022, allowed the CRP setting aside the order, dated 22.04.2022 of the Agency Court and directed the Station House Officer, Dammamet Police Station, to provide police protection to the petitioner/plaintiff, pending disposal of the suit in O.S.No.385 of 2014. Aggrieved by the same, respondents/defendants carried the matter to the Hon'ble Apex court by filing SLP (C) No.17262 of 2022 and the Hon'ble Apex Court, vide order dated 30.09.2022, disposed of the said SLP. The said order reads as follows:

"Heard learned Senior counsel for the petitioners as well as the learned counsel for the respondent. We see no reason to interfere with the impugned order.

However taking note that the Suit No.385/2014 from which all these issues arise is pending for a long time before the Sub-Divisional Magistrate at Bhadrachalam. The Trial Court to dispose of the suit on its own merits as expeditiously as possible but not later than within six months from the date of receipt of a copy of this order.

At this stage, we take note of the submission made by learned Senior counsel appearing for the petitioners that the direction issued by the High Court to grant the police protection is being misused by the jurisdictional police by registering FIRs unnecessarily.

Learned counsel for the respondent would however dispute the same vehemently and contended that the order passed by the High Court has not been misused.

In this regard though we express no opinion on the rival contention we make it clear that if any of the jurisdictional police are unnecessarily making use of the order contrary to law it would be open to the petitioner to bring it to the notice of the higher authorities in the police hierarchy with specific instances against such police officials which may be dealt with administratively.

Needless to mention that any of the observations in that regard contained in this order does not relate to the merits of the matter relating to rival contentions between the parties in the suit which shall be dealt with in the judicial proceedings.

With the above observations, the Special Leave Petition stands disposed of."

5. While so, the petitioner/plaintiff filed the subject I.A.No.154 of 2022 before the Agency Court under Order XXXIX Rule 2A of CPC, seeking to detain the respondents/defendants in civil prison for disobedience of the order of the Court, contending that though the *ex parte* injunction granted by the Agency Court was made absolute and the said orders are still in force, the respondents/defendants are not obeying the order of the Court and committed contempt of Court by entering into the suit schedule land destroying the crops of the petitioner/plaintiff and also attacked the husband of the petitioner/plaintiff with sticks and iron rods causing grievous hurt with an intention to kill him; it took three months to the husband of the petitioner/plaintiff to recover from the injuries sustained by him; the police authorities have registered as many as seven crimes against the respondents/defendants for their illegal acts, which are pending before the criminal Courts and they were also in judicial custody for 45 days in connection with the same; though the injunction order is still in force, the respondents/defendants are again trying to grab the suit schedule land; the respondents/defendants are

guilty of breach/disobedience of the injunction order and as such, they are required to be detained in civil prison.

6. The respondents/defendants filed counter in the subject I.A.No.154 of 2022 *inter alia* contending that all the FIRs were registered prior to remitting back the matter to the Agency Court by this Court; the respondents/defendants are in possession of the suit schedule land even prior to the grant of injunction order by the Agency Court till today and as such, the question of disobedience of the order of Court does not arise; there is no cause of action to file the subject I.A.No.154 of 2022; as per the orders of the Hon'ble Supreme Court, without final disposal of the suit, the subject I.A.No.154 of 2022 is not maintainable.

7. The Agency Court, after adverting to the submissions made and the averments of both sides, dismissed the subject I.A.No.154 of 2022 vide order impugned in this Civil Revision Petition. The operative portion of the impugned order reads thus:

"On perusal of the material papers on record filed by both parties and heard arguments, this court concluded that though petitioner/plaintiff having pass book, failed to establish physical possession and enjoyment over the schedule property. All the FIRs registered against the respondents/defendants after grant of police protection order; Prior to that no FIRs were registered against the respondents/defendants. The petitioner/plaintiff not filed any proof with regard to the cause of action of filing of this I.A. on 16.04.2022, the petition schedule property is under surveillance of CC Cameras this Court concluded that the respondents/defendants are not committed any disobedience of this court orders. In the main suit the

respondents/defendants filed written statements, it is coming for settlement of issues, at this stage the petitioner/plaintiff filed this petition, moreover in this case the Hon'ble Supreme Court of India in Special Leave Appeal (C) No.17262 of 2022 directed this Court to dispose of the suit within (06) six months from the date of receipt of order dated 30.09.2022, as per the Apex Court Order this Court scheduled to conduct trial in Main Suit expeditiously to dispose this case.

IN THE RESULT, the I.A.No.154 of 2022 in I.A.No.261 of 2014 in O.S.No.385 of 2014 is here by dismissed with no costs, suit is posted for settlement of issues on 20.01.2023."

8. Learned counsel for the petitioner/plaintiff would submit that since the conditions envisaged in Order XXXIX Rule 2A of CPC are satisfied, the Agency Court ought to have allowed the subject application. The Agency Court did not even advert to Order XXXIX Rule 2A of CPC while considering the subject application. Further, the Agency Court erred into going into the aspect of possession of the parties over the suit schedule land in the subject application filed to punish the respondents/defendants for disobedience of injunction order. The Agency Court erred in dismissing the subject application on the ground that the petitioner/plaintiff failed to establish physical possession and enjoyment of the suit schedule land, which finding is contrary to the order passed in injunction application and confirmed in CRP No.2123 of 2016, dated 02.09.2016. Once an injunction order is passed and is in force and there is disobedience of the said order, the petitioner/plaintiff can move an application under Order XXXIX Rule 2A of CPC and the

finding of the Agency Court that there was no cause of action to file the subject I.A.No.154 of 2022 is perverse, incorrect and ultimately prayed to allow the Civil Revision Petition as prayed for.

9. Learned senior counsel appearing for the respondents/defendants, on the other hand, would contend that the Court below rightly dismissed the subject application. Since the Hon'ble Apex Court passed order, dated 30.09.2022, all the orders passed by the Agency Court as well as this Court merges with the said order and since the Hon'ble Apex Court specifically directed the Agency Court to dispose of the suit within a time frame, the Agency Court is bound to do so and hence, the Agency Court rightly held that there was no cause of action to file the subject application and as such, it is not maintainable. Further, all the FIRs that were registered against the respondents/defendants are prior to the remitting of the matter by this Court vide order, dated 29.11.2021 in CRP No.190 of 2017. The respondents/ defendants are in possession of the suit schedule lands since the last 42 years and under the guise of police protection order, the petitioner/plaintiff is trying to enter into the suit schedule land. There were no circumstances to allow the subject I.A.No.154 of 2022 by the Agency Court and the Agency Court is justified in dismissing the same. There is nothing to interfere with the

impugned order and ultimately prayed to dismiss the Civil Revision Petition.

10. Contentious issues are involved in the suit, which is for the Agency Court to decide while disposing of the suit. Admittedly, the *ex parte* injunction granted in favour of the petitioner/plaintiff in relation to the suit schedule land was made absolute by the Agency Court and the CRP filed challenging the same was dismissed by this Court. Thereafter, the police protection petition filed by the petitioner/plaintiff was dismissed by the Agency Court. When the same was challenged before this Court, this Court remitted the matter to the Agency Court with certain directions. After the matter was remitted to the Agency Court, the Agency Court again dismissed the police protection petition. Challenging the same, the petitioner/plaintiff filed another CRP before this Court and this Court allowed the CRP setting aside the order of the Agency Court and directed the Station House Officer, Dammapeta Police Station, to provide police protection to the petitioner/plaintiff, pending disposal of the suit in O.S.No.385 of 2014. The matter was ultimately carried to the Hon'ble Apex Court and the Hon'ble Apex Court disposed of the SLP confirming the police protection order. Thus, all the orders of the Agency Court as well as this Court got merged with the order of the

Hon'ble Apex Court and it is clear that the police protection order is still in force. Further, all the FIRs that were registered against the respondents/defendants are prior to remitting back the matter to the Agency Court by this Court and prior to granting police protection order by this Court. Further, it is specifically observed by the Hon'ble Apex Court that if any of the jurisdictional police are unnecessarily making use of the police protection order contrary to law, it would be open to the respondents/defendants to bring it to the notice of the higher authorities in the police hierarchy with specific instances against such police officials which may be dealt with administratively. Further, the petitioner/plaintiff could not establish the cause of action to file the subject I.A.No.154 of 2022 on 16.04.2022. The petitioner/plaintiff could not make out a case for detaining the respondents/defendants in civil prison for disobedience of injunction order granted by the Agency Court. The Agency Court observed in the impugned order that the suit schedule land is under the surveillance of CC Cameras. Thus, there were no circumstances for the Agency Court to order detention of the respondents/defendants in civil prison by exercising jurisdiction under Order XXXIX Rule 2A of CPC. Further, in view of the direction of the Hon'ble Apex Court, the Agency Court is bound to dispose of the main suit within six (06) months

from the date of receipt of a copy of the said order, dated 30.09.2022. Under these circumstances, this Court is of the view that the Court below rightly dismissed the subject I.A.No.154 of 2022. There is nothing to interfere with the impugned order.

11. Here, it is apt to state that the supervisory jurisdiction of this Court under Article 227 of the Constitution of India is very limited and is only intended to keep the subordinate Courts within the bounds of their authority, to see that they do what their duty requires and they do it in a legal manner and not to correct mere errors, either on facts or on law, and not as a cloak of an appeal in disguise. In the instant case, the Agency Court acted well within its jurisdiction in passing the impugned order, dated 12.01.2023, and there is no patent illegality in the same. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

12. Accordingly, this Civil Revision Petition is dismissed.

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

//TRUE COPY//

SD/-N.SRIHARI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

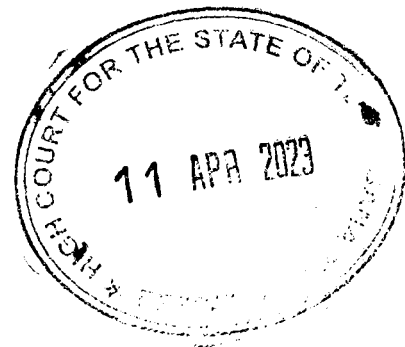
1. The Sub- Divisional Magistrate and Special Assistant Agent to Government Mobile Court at Bhadrachalam.
2. One CC to SRI. S V RAMANA, Advocate. [OPUC]
3. One CC to SRI. D.B.CHAITANYA, Advocate.[OPUC]
4. Two CD Copies

SB

BSR

HIGH COURT

DATED:14/03/2023



ORDER

CRP.No.470 of 2023

DISMISSING THE CRP WITHOUT COSTS

6
11/04/23
BSR