

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

**FRIDAY, THE SIXTH DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

CIVIL REVISION PETITION NO: 1197 OF 2021

Petition under Article 227 of the Constitution of India Order Dated 28/04/2021 passed in I.A.No: 507 of 2021 in O.S.No. 499 of 2021 on the file of the Sub-Divisional Magistrate & Special Assistant Agent to Government Mobile Court, Bhadrachalam the above named petitioner's prefer this memorandum of Civil Revision Petition.

Between:

1. Dhubba Raju S/o. Neelaiah
2. Dhubba Krishna, S/o. Neelaiah
3. Payala Laxmi, W/o. Raju
4. Payala Musamma, W/o. Sathyam
5. Sunnam Rajukumari, W/o. Lakshmaiah
6. Irpa Papamma, W/o. Raju

...PETITIONERS/PETITIONERS/DEFENDANTS

AND

1. Irpa Vasantha Rao S/o. Arjun, Aged 32 years, Occ. Agriculture, Caste by ST (Koya), R/o. Gommupuliboina Palli Village, Charla Mandal, Bhadradi-Kothagudem District
2. Payal Raju, S/o. Mallaiah, Aged 40 years, Occ. Agriculture, Caste by ST (Koya), R/o. C. Kathigudem Village, Charla Mandal, Bhadradi-Kothagudem District
3. Payal Raghavalu, S/o. Eshwara Rao, Aged 45 years, Occ. Agriculture, Caste by ST (Koya), R/o. C. Kathigudem Village, Charla Mandal, Bhadradi-Kothagudem District
4. Dhubba Kondababu, S/o. Neelaiah, Occ. Agriculture, Caste by ST (Koya), R/o. Eppalachadava Village, Charla Mandal, Bhadradi-Kothagudem District

...RESPONDENTS/RESPONDENTS/PLAINTIFFS

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to grant stay of all further proceedings in O.S. No. 499 of 2021 on the file of the Court of the Sub-Divisional Magistrate & Special Assistant Agent to Government, Mobile Court, Bhadrachalam, pending disposal of the main CRP.

Counsel for the Petitioners: S RI. PANGA SIVANARAYANA

Counsel for the Respondents 1 to 4: D RAMAKRISHNA

The Court made the following: ORDER

HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU

C.R.P.NO.1197 of 2021

ORDER :

The petitioners herein are defendants No.3, 4, 6, 7, 8 and 9 in O.S.No.499 of 2021 and respondents No.3, 4, 6, 7, 8 and 9 in I.A.No.507 of 2021. Being aggrieved by the order of Sub-Divisional Magistrate and Special Assistant Agent to Government Mobile Court, Bhadrachalam in I.A.No.507 of 2021 dated 28-04-2021, whereunder the petitioners were restrained from interfering with the suit schedule property, preferred the present revision under Article 227 of Constitution of India.

2. The petitioners have claimed that the order impugned in the present revision is contrary to law and probabilities of the case. The said order was passed in application filed under Order 39 Rule 3 C.P.C. for an injunction. However, the petitioners have claimed that while granting the *ex parte* injunction under Order 39 Rule 3 C.P.C, the Court is bound to give reasons for passing such orders but the Court below without assigning any reasons, restrained the petitioners from interfering with the suit schedule property. The Court below failed to consider the important issue of

physical possession as on the date of filing the suit by the plaintiffs. The respondent/plaintiff failed to establish his possession on the basis of any documentary proof but an *ex parte* injunction was passed without any power and jurisdiction and no reasons were explained for granting *ex parte* injunction. Therefore, they prayed for setting aside the order.

3. When the matter is taken up for hearing, the learned counsel for the respondent/plaintiff has submitted that the petitioners herein have got every right to appear before the Court below, file their counter and contest the application, but instead they preferred the present revision which is not warranted. The learned counsel for the respondent/plaintiff further submitted that even though an *ex parte* temporary injunction was passed, the petitioners have got every right to oppose the order by filing their reply/counter which was not done by the petitioners herein. On the other hand, the learned counsel for the petitioners has submitted that a cryptic order was passed by the Court below without discussing the documents, without any finding about prima facie case, balance of convenience, an order was passed restraining the petitioners who are in actual possession of the property. During the course of arguments, they have accepted

that the petition vide I.A.No.507 of 2021 is still pending before the Court below. Therefore, instead of disposing the present revision on merits, it is convenient and required to give a direction to the Court below for expedite disposal of the interlocutory application on merits after giving opportunity to both parties. Therefore, with the consent of both Advocates, without touching the merits of the present revision, the petition is disposed with a direction to the Court below for expedite disposal of the Interlocutory Application.

4. In the result, the petition is disposed of that the Sub-Divisional Magistrate and Special Assistant Agent to Government Mobile Court, Bhadrachalam, shall dispose I.A.No.507 of 2021 after giving opportunity to both parties to submit their documents and advance arguments and decide the application on merits as expeditiously as possible, preferably in four weeks from the date of receiving the copy of this order. The parties have to bear their own costs.

Consequently, Miscellaneous applications if any, are closed.

Sd/- R. KARTHIKEYAN
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Sub-Divisional Magistrate & Special Assistant Agent to Government Mobile Court, Bhadrachalam
2. One CC to SRI. PANGA SIVANARAYANA Advocate [OPUC]
3. One CC to SRI. D RAMAKRISHNA Advocate [OPUC]
4. Two CD Copies

VH *[Signature]*

HIGH COURT

SSRNJ

DATED:06/01/2023

ORDER

CRP.No.1197 of 2021



Disposing of the C.R.P.

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27/1/23
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