

HONOURABLE SRI JUSTICE A.ABHISHEK REDDY

Civil Revision Petition No.2481 of 2022

ORDER:

Aggrieved by the order and decree dated 22.08.2022 passed in Civil Miscellaneous Appeal No.83 of 2021 by the learned Principal District Judge, at Jangaon, the present Civil Revision Petition is filed by the petitioners/plaintiffs.

2. Heard the arguments of Sri Praveen Kumar Veerjala, learned counsel for the petitioners, Sri T. Damodar, learned counsel for the respondent Nos.1 and 2 and perused the record.

3. The petitioners herein/plaintiffs have filed a suit for injunction against the respondents herein/defendants before the Additional Junior Civil Judge, Jangaon, and the same was numbered as O.S.No.560 of 2020. Along with the suit, the petitioners herein have filed I.A.No.804 of 2020 under Order XXXIX Rule 1 and 2 read with Section 151 of CPC, seeking temporary injunction restraining the respondents/defendants from interfering with their peaceful possession and enjoyment of suit schedule property. That the trial Court vide order dated 04.10.2021 duly taking into consideration the documentary evidence filed by the petitioners herein has granted interim

injunction order in favour of the petitioners. Aggrieved thereby, the respondent Nos.1 and 2 herein/defendant Nos.1 and 2 have filed Civil Miscellaneous Appeal before the learned Principal District Judge, at Jangaon and the same was numbered as C.M.A.No.83 of 2021. The learned Principal District Judge, at Jangaon, vide order and decree dated 22.08.2022 has modified the interim injunction order and directed both parties to maintain *status quo* till the disposal of the suit. Challenging the same, the present Civil Revision Petition is filed by the petitioners/plaintiffs.

4. When the matter came up before this Hon'ble Court, this Court vide order dated 11.11.2022 suspended the order dated 22.08.2022 passed in C.M.A.No.83 of 2021. Thereafter, on 16.12.2022, the order of suspension granted on 11.11.2022 was modified and this Court directed both the parties to maintain *status quo* and the said order of *status quo* has been extended from time to time.

5. The learned counsel for the petitioners has stated that though the petitioners are having registered sale deeds in their favour and the revenue records also evidence that they are in possession and enjoyment of the suit schedule property, the Appellate Court without considering the documentary evidence in a

proper perspective has modified the order of injunction granted in their favour by the trial Court. That the injunction order passed by the trial Court was based on documentary evidence filed by the petitioners and there was no occasion for the Appellate Court to modify the order of injunction granted in their favour into an order of *status quo*. Therefore, the learned counsel prayed this Hon'ble Court to allow the present Civil Revision Petition and set aside the order dated 22.08.2022 passed in C.M.A.No.83 of 2021 by the Appellate Court.

6. Per contra, the learned counsel appearing on behalf of respondent Nos.1 and 2 has stated that the petitioners have no proper title to the suit schedule property and they are not in physical possession of the suit schedule property as on the date of filing of the suit. Learned counsel for the respondent Nos.1 and 2 has stated that the original owner of the land i.e, Gattu Bikshapathi, who is none other than the father of the respondent No.3 herein has filed a suit bearing O.S.No.139 of 2012 on the file of Additional Junior Civil Judge, Jangaon, seeking perpetual injunction in respect of the very same property and the said suit was dismissed on 24.09.2019 holding that the said Bikshapathi is not in physical possession of the subject property. That the

subject property of the suit filed by Bikshapathi and the present suit is one and the same. That during the pendency of the said suit, Biskhapathi has gifted the property in favour of respondent No.3 herein and the respondent No.3 in turn has alienated the property in favour of the petitioners herein. Moreover, mutation of the property in the name of the petitioners herein was not made as the respondent Nos.1 and 2 have objected for the same. The learned counsel for the respondent Nos.1 and 2 has drawn the attention of this Court to the report dated 19.08.2020 submitted by the Village Revenue Officer to the Tahsildar, Raghunathpally Mandal and also Memo dated 10.05.2016 vide RC No.B/1118/2016 issued by the Tahsildar, Raghunathpally Mandal. In the Memo dated 10.05.2016, it was stated that the respondent No.3 herein is not in possession of the subject property and therefore, it was not possible to issue pattadar pass books and title deeds to the respondent No.3 herein. The learned counsel for the respondents has stated that based on bogus gift deed executed in favour of respondent No.3 by the said Bikshapathi, the respondent No.3 has alienated the property in favour of the petitioners herein without putting them in physical possession of the property and therefore, the learned counsel prayed this Hon'ble Court to dismiss the present Civil Revision Petition.

7. In view of the above rival submissions, the point that arises for determination in this C.R.P is:

“Whether there are merits in this Civil Revision Petition to allow, as prayed for?”

8. Admittedly, in this case, the suit schedule property in the present suit, was the subject matter of suit in O.S.No.139 of 2012 filed by the Gattu Bikshapathi, father of the respondent No.3 herein. The said suit in O.S.No.139 of 2012 came to be dismissed by the trial Court on 24.09.2019 holding that Biskhapathi, father of the respondent No.3 herein was not in physical possession of the property. Even the memo dated 10.05.2016 filed by the respondent Nos.1 and 2 herein which was issued by the Tahsildar, Raghunathpally Mandal, show that respondent No.3 herein is not in physical possession and as such the request of the respondent No.3 for issuance of pattedar passbooks and title deeds was not acceded too. Further the application of the petitioners for mutation was rejected basing on the report dated 19.08.2020 submitted by the Village Revenue Officer to the Tahsildar, Raghunathpally Mandal. The appellate Court taking all these factors into consideration and also fact that cogent evidence is to be let in by both parties with regard to the physical possession of the suit schedule property, has modified the order of interim injunction

granted in favour of the petitioners into that of *status quo*. Even this Court vide order dated 16.12.2022 directed both the parties to maintain *status quo* and the same is still in subsistence.

9. Having regard to the judgment and decree dated 24.09.2019 passed in O.S.No.139 of 2012 by the learned Additional Junior Civil Judge, Jangaon, the Memo issued by the revenue authorities and also reasons given by the Appellate Court, this Court is of the opinion that no prejudice would be caused to the parties if the order of *status quo* is to be maintained pending trial. This Court does not find any reason to interfere with the impugned order and decree dated 22.08.2022 passed by the Appellate Court. This Civil Revision Petition is devoid of merits and is liable to be dismissed.

10. Accordingly, this Civil Revision Petition is dismissed.

The miscellaneous applications pending if any shall stand closed. There shall be no order as to costs.

Date: 27.01.2023
SCS/PVT

A.ABHISHEK REDDY, J