

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

CIVIL REVISION PETITION No.2255 of 2023

ORDER:

Heard Sri Vedula Venkata Ramana, learned senior counsel representing M/s.Bharadwaj Associates, learned counsel appearing for petitioners-defendants and Sri S.V. Ramana, learned counsel appearing for respondent-plaintiff.

2. This revision is filed under Article 227 of Constitution of India seeking a direction to the Agent to Government / District Collector, Bhadrachalam to send back the suit records in O.S.No.385 of 2014 to the file of Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam.

3. Respondent-plaintiff had filed a suit vide O.S.No.385 of 2014 on the file of the learned Sub-

Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam, seeking perpetual injunction against petitioners herein / defendants. Plaintiff had also filed I.A.No.281 of 2014 seeking temporary injunction. Learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam, granted *ex parte* interim injunction on 10-11-2014. The said temporary injunction was made absolute vide order dated 19-04-2016. Questioning the same, petitioners herein / defendants have filed a revision vide Civil Revision Petition No.2123 of 2016 and the same was dismissed by this Court on 02-09-2016. Thereafter plaintiff had filed Interlocutory Application vide I.A.No.181 of 2016 seeking Police protection and the same was dismissed by the trial Court vide order dated 30-11-2016. Therefore, plaintiff had filed Civil Revision Petition No.190 of 2017 challenging the said order. This Court granted interim

direction to the Station House Officer, Dhammapet Police Station to provide Police protection. Thereafter the said Civil Revision Petition itself was disposed of vide order dated 29-11-2011 setting aside the order dated 30-11-2016 in I.A.No.181 of 2016 and remanded the matter to the trial Court to dispose of the said I.A.No.181 of 2016 afresh with certain directions.

4. On remand, learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam, dismissed I.A.No.181 of 2016 vide order dated 22-04-2022 filed by plaintiff seeking Police protection. Challenging the said order, plaintiff had filed Civil Revision Petition No.1827 of 2022 and this Court, vide order dated 19-09-2022 allowed the said CRP setting aside the order dated 22-04-2022 in I.A.No.181 of 2016 in O.S.No.385 of 2014 passed by learned Sub-Divisional Magistrate and Special Assistant Agent to

Government, Mobile Court at Bhadrachalam. This Court also directed the Station House Officer, Dammapet Police Station, Dammapet Mandal, Bhadrachalam-Kothagudem district to provide Police protection to the plaintiff. Feeling aggrieved by the said order, defendants have preferred a Special Leave Petition vide SLP(C) No.17262 of 2022. Vide order dated 30-09-2022 the Hon'ble Apex Court disposed of the said SLP without interfering with the impugned order. However, considering the fact that the suit is of the year 2014, the Hon'ble Apex Court directed the learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam, to dispose of the suit on its own merits, as expeditiously as possible, preferably within six (6) months from the date of receipt of a copy of the said order.

5. Thereafter plaintiff had filed I.A.No.154 of 2022 before the Agency Court under Order XXXIX Rule 2(a) of CPC to detain the defendants in civil prison for disobedience of orders of the Court alleging that the defendants have violated the said injunction order. Court below dismissed the said I.A. vide order dated 12-01-2023. Plaintiff filed a revision challenging the said order. Vide order dated 14-03-2023, this Court dismissed the said revision.

6. Thereafter petitioners herein / defendants have filed the present revision on 31-07-2023 alleging that learned Agent to Government / District Collector, Bhadradi-Kothagudem transferred the suit from learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam to the Agent to Government / District Collector, Bhadradi-Kothagudem illegally and without power. They sought a

direction to the Agent to Government / District Collector, Bhadradri-Kothagudem to send back the suit records in O.S.No.385 of 2014 to the file of learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam, on the following grounds:

- i. *Originally plaintiff had filed the aforesaid suit before the learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam.*
- ii. *Vide order dated 30-09-2022 in SLP (C) No.17262 of 2022, the Hon'ble Apex Court directed the learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam to dispose of the suit on its own merits, as expeditiously as possible, preferably within six (6) months from the date of receipt of a copy of the said order. Therefore, transfer of proceedings to the Agent to Government / District Collector, Bhadradri-Kothagudem is in violation of the said order.*

- iii. *No motive or opportunity and no reason is available for such illegal transfer by the trial Court, which is undergoing trial.*
- iv. *Learned Agent to Government / District Collector, Bhadradri-Kothagudem, has no power to call for the suit proceedings from the learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam to its Court either suo moto or on an application filed by either of the parties as per the procedure laid down under Agency Rules, 1924.*
- v. *They have reasonable apprehension that due to political and other extraneous consideration, continuation of the suit in the Court of learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam is interrupted. The Agent to Government / District Collector, Bhadradri-Kothagudem Agent to Government / District Collector, Bhadradri-Kothagudem has no authority of law to take away the suit from the file of learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam.*

- vi. *The said withdrawal is contrary to the orders passed by this Court dated 14-03-2023 in Civil Revision Petition No.470 of 2023.*

With the aforesaid submissions, they sought a direction to the learned Agent to Government / District Collector, Bhadradri-Kothagudem to send back the file to the learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam.

7. Sri Vedula Venkata Ramana, learned senior counsel representing M/s.Bhadradvaj Associates, learned counsel appearing for the petitioners / defendants reiterated the aforesaid contentions.

8. Sri S.V. Ramana, learned counsel appearing for the respondent would submit that as per the Agency Rules, the Agent to Government / District Collector, Bhadradri-Kothagudem has power to transfer the proceedings from

learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam to the Agent to Government / District Collector, Bhadradri-Kothagudem either *suo moto* or on an application filed by either of the parties to the suit. The Hon'ble Apex Court and this Court directed the trial Court to dispose of the suit, in accordance with law considering the fact that the suit is of the year 2014. But there is no direction to the Agent to Government / District Collector, Bhadradri-Kothagudem not to transfer or not to dispose of the suit, in accordance with law. Even then, petitioners / defendants have filed the present revision only to drag on the proceedings.

9. In the light of the aforesaid discussion, it is not in dispute that the suit is of the year 2014. Respondent / plaintiff had filed the aforesaid suit on the file of learned Sub-Divisional Magistrate and Special Assistant Agent to

Government, Mobile Court at Bhadrachalam, against the petitioners / defendants seeking perpetual injunction in respect of the suit schedule property i.e., land admeasuring Ac.2-01 gts., in Sy.No.26/A, Mandalapalli village of Dammapeta mandal.

10. Several Interlocutory Applications have filed by parties to the suit. Court below passed several orders on the same. Three (3) Civil Revision Petitions were filed by the parties before this Court and the details of the same are narrated supra. Defendants have filed SLP and the Hon'ble Apex Court vide order dated 30-09-2022 directed the Court below to dispose of the suit on its own merits, as expeditiously as possible, preferably within six (6) months from the date of receipt of a copy of the said order. Several FIRs were also registered. Police aid was granted by this Court. The same was confirmed by the Hon'ble Apex court. Even then, according to the plaintiff,

defendants are violating the said orders, therefore, plaintiff sought to detain the defendants, in accordance with law. The said Interlocutory Application was also dismissed by the Court below and the same was confirmed by this Court. Thus, there is chequered history to the present suit and the suit is pending since 9 years.

11. In the light of the aforesaid discussion and submissions made by both learned counsel, the only issue to be considered by this Court is as to whether the Agent to Government / District Collector, Bhadradri-Kothagudem is having power to transfer the proceedings in O.S.No.385 of 2014 from the learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam to his file as per the Agency Rules, 1924. To decide the said issue it is relevant to extract Rule 11 of the Agency Rules, 1924:

“Rule 11 of the Andhra Pradesh Agency Rules, 1924

“11. TRANSFER OF SUITS : On the application of any of the parties and after notice to the other parties and after hearing such of them as desired to be heard, or of his own motion without such notice, the Agent to the State Government, may at any stage,

(1) Transfer to his court any original suit or appeal pending in any other court within Agency tract included in his district.

(2) Transfer to the court of any Agency Divisional Officer subordinate him any original suit or appeal pending in any other court of equal or inferior jurisdiction within the Agency tracts included in his district;

(3) Transfer to the Court of any Agency Munsif Subordinate to him any original suit pending in the Court of any other Agency Munsif so subordinate:

(4) Transfer to the Court of any Divisional Officer subordinate to him any original suit or appeal pending in this court.

12. As per the said Rule, the learned Agent to Government / District Collector, Bhadradi-Kothagudem is having power to transfer the proceedings from the

learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam to his file either *suo moto* or on an application filed by any of the parties. But, on an application by any of the parties to the suit, after notice to other parties and after hearing such of them as desired to be heard, the Agent to the State Government may at any stage transfer the suit. Therefore, the following are the requirements to transfer the suit from the learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam to the learned Agent to Government / District Collector, Bhadrachalam:

- (1) On application of any of the parties to the suit.
- (2) Notice to the other party
- (3) After hearing such of them as desired to be heard.
- (4) *Suo moto* without such notice

13. In the light of the aforesaid allegations made by defendants that the Agent to Government / District Collector, Bhadradi-Kothagudem transferred the file *suo moto* due to the political consideration, this Court directed the Registry to call for record from the learned Agent to Government / District Collector, Bhadradi-Kothagudem. Accordingly, record was called for. Learned Agent to Government / District Collector, Bhadradi-Kothagudem sent the attested copy of record and this Court perused the said record.

14. Perusal of the record would reveal that the plaintiff submitted letters and also filed Memos before the learned Agent to Government/ District Collector, Bhadradi-Kothagudem to transfer the files from the learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam to his file. She has made several serious allegations against the

learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam.

15. Perusal of the record also would reveal that the Anti Corruption Bureau is conducting a regular enquiry vide proceedings No.8/RE-WKH/2022 dated 12-12-2022 against Sri Ch. Venkateswarlu, learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam, with regard to certain allegations of misconduct. Notice dated 09-02-2023 was also issued to the said Sri Ch. Venkateswarlu by the Deputy Superintendent of Police, Anti Corruption Bureau, Ranga Reddy. Considering the said allegations made by the plaintiff and other allegations made by several parties, learned Agent to Government / District Collector, Bhadrachalam, called for the record from the learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at

Bhadrachalam vide proceedings dated 10-04-2023. Instead of transferring the file to learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam vide proceedings dated 11-04-2023, narrating entire facts stating that the plaintiff instead of cooperating with the Court below in disposal of the suit as per the directions of the Hon'ble Apex Court, making allegations against him and therefore, he sought suitable instructions in the matter. Therefore, vide letter dated 11-07-2023, learned Agent to Government / District Collector, Bhadradri-Kothagudem instructed learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam to send the file in O.S.No.385 of 2014 to his file.

16. It is apt to note that the plaintiff had filed another letter dated 11-08-2022 making serious allegations

against Sri Ch. Venkateshwarlu, learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam and requested the District Collector to call for the record. She has also submitted another letter to the Hon'ble Governor marking a copy to the District Collector, since the learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam did not sent the file to the Agent to Government / District Collector, Bhadradri-Kothagudem. A show cause notice dated 24-08-2022 was issued to Sri Ch. Venkateshwarlu, Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam.

17. The afore-stated facts would reveal that the Agent to Government / District Collector, Bhadradri-Kothagudem is having power to transfer the suit from learned Sub-Divisional Magistrate and Special Assistant

Agent to Government, Mobile Court at Bhadrachalam to his file *suo moto* in terms of Rule 11 of the Agency Rules, 1924. Therefore, the contention of Sri Vedula Venkata Ramana, learned senior counsel that the Agent to Government / District Collector, Bhadrachalam-Kothagudem has no power to transfer the suit is untenable.

18. Considering the fact that the suit is of the year 2014, Hon'ble Apex Court and this Court directed the Court below to dispose of the suit on its own merits, as expeditiously as possible, preferably within six (6) months. As on the said passing orders by Hon'ble Apex Court and this Court, the said proceedings were pending on the file of learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam and therefore, Hon'ble Apex Court and this Court directed the learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile

Court at Bhadrachalam, to dispose of the suit in accordance with law by fixing time. There is no prohibition that the proceedings in the said suit cannot be transferred to the Agent to Government / District Collector, Bhadradri-Kothagudem.

19. As discussed supra, there are serious allegations against Sri Ch. Venkateshwarlu before whom the said proceedings in O.S.No.385 of 2014 are pending. A regular enquiry was also initiated by Anti Corruption Bureau against him. Considering the said facts and also the allegations made by plaintiff, the Agent to Government / District Collector, Bhadradri-Kothagudem transferred the suit from learned Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court at Bhadrachalam to its Court *suo moto* in terms of Rule 11 of the Agency Rules, 1924. There is no error or illegality in it.

20. Sri Vedula Venkata Ramana, learned senior counsel appearing on behalf of petitioners / defendants would contend that the Agent to Government / District Collector, Bhadradi-Kothagudem is conducting proceedings on day to day basis without following due procedure laid down under law due to political reasons.

21. As discussed supra, vide order dated 30-09-2022, Hon'ble Apex Court directed the Court below to decide the said suit, in accordance with law, as expeditiously as possible. Therefore, it is the duty of the Court below to decide the said suit as expeditiously as possible, in obedience of the aforesaid order.

22. Perusal of the record also would reveal that the Court below has appointed an Advocate Commissioner to record the evidence. Plaintiff had already examined 4 witnesses i.e., PWs.1 to 4 and defendants have examined 5 witnesses i.e, DWs.1 to 5. Therefore, according to this

Court, there is no irregularity committed by the learned Agent to Government / District Collector, Bhadradi-Kothagudem, in conducting the proceedings in the said suit.

23. In fact, the learned Agent to Government / District Collector, Bhadradi-Kothagudem is trying to dispose of the suit, strictly in accordance with law, as expeditious as possible, in compliance of the order dated 30-09-2022 of Hon'ble Apex Court. Both the plaintiff and defendants have to cooperate with the Court below in disposal of the suit, in accordance with law.

24. In the light of the aforesaid discussion, there are no merits in the present Civil Revision Petition and it is liable to be dismissed.

25. Accordingly, this Civil Revision Petition is dismissed. However, learned Agent to Government /

District Collector, Bhadradi-Kothagudem, is directed to dispose of the suit in O.S.No.179 of 2023 (old O.S.No.385 of 2014), strictly in accordance with law, in compliance with order dated 30-09-2022 of the Hon'ble Apex Court in SLP(C) No.17262 of 2022. No costs.

26. Registry is directed to retransmit the aforesaid attested copy of the record to the Court below under due acknowledgment.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

K. LAKSHMAN, J

November 03, 2023

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THE HONOURABLE SRI JUSTICE K. LAKSHMAN

CIVIL REVISION PETITION No.2255 of 2023

November 03, 2023

Note: L.R. copy to be
marked. B/o.PN