

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

C.R.P.NO.2668 OF 2023

Between:

Uppari Ravi and another

... Petitioners

And

Smt K.Venkata Suryakumari

... Respondent

JUDGMENT PRONOUNCED ON: 29.11.2023

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes
see the fair copy of the Judgment?

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**C.R.P.NO.2668 OF 023**

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Uppari Ravi and another

... Petitioners

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< Gist:

> Head Note:

! Counsel for the Petitioners : Ms Pratusha Boppana

^ Counsel for Respondent : Mr S.Prakash

? Cases Referred:

1. 2019 (2) ALT 287 (DB)

HON'BLE MRS JUSTICE SUREPALLI NANDA**C.R.P.NO.2668 OF 023****ORDER:**

Heard Ms Pratusha Boppana, learned counsel appearing on behalf of the petitioners and Mr S.Prakash, learned counsel appearing on behalf of the respondent.

2. This civil revision petition is filed challenging the propriety and legality of the order dated 04.08.2023 passed in C.M.A.No.7 of 2023 on the file of 1st Additional District Judge, Sangareddy, whereby and whereunder the Civil Miscellaneous Appeal (CMA) was dismissed confirming the order of temporary injunction dated 24.01.2023 in I.A.No.248 of 2021 in O.S.No.738 of 2021 on the file of II Additional Junior Civil Judge at Sangareddy.

3. For the sake of convenience, the reference of the parties is made as per their array in the suit before the Lower Court.

4. The plaintiff filed the suit for grant of perpetual injunction against the defendant in respect of the open plot bearing No.104, admeasuring 200 sq. yards in Sy.No.4, 5, 6, 7, 8, 9, 11, 13, 14, 15, 16, 17, 20, 21, 23, 24, 25, 26, 27, 31, 32, 33, 550, 970, 971, 973, 975, 976, 977, 978, 980, 981, 982, 984, 985, 986, 990, 991, 992, and 993 situated at Patencheruvu Town and

Mandal, Sanga Reddy District as described within the boundaries shown in the plaint schedule hereinafter called as (suit schedule property).

5. The plaintiff filed I.A.No.248 of 2021 under order 39 Rules 1 and 2 seeking grant of temporary injunction against the defendant from interfering with his alleged peaceful possession and enjoyment of the suit property.

6. The case of the petitioner/plaintiff in brief is that he purchased the suit schedule property from one Mohd. Zakir Hussain under registered sale deed bearing document No.37854, of 2018, dated 27.08.2018 and took delivery of possession of property on the same day and ever since he has been in possession of the property. The respondents/defendants without any manner of right whatsoever long with anti social elements came to the suit schedule property on 22.06.2021 and tried to interfere with his possession of the property but he could resist their attempts of interference with the support of his family members and well wishers and therefore, temporary injunction may be granted against the respondent pending disposal of the suit.

7. The respondents/defendants filed counter denying the title and possession of the petitioner/plaintiff over suit property. Their case is that they are owners and possessors of nine guntas in Survey No.22 and 24 guntas in Survey No.974 situated at Patancheruvu Town and Mandal. According to them, nine guntas in Survey No.22 is their ancestral property. Regarding 24 guntas in Survey No.74, their plea is that Uppari Mallaiah, the brother of the 2nd respondent/defendant purchased the land under registered sale deed bearing document No.1726 of 1973, dated 27.09.1973 from Jalagiri Pentaiah. The said Mallaiah had no issues and so he brought up the 1st respondent/1st defendant and he executed registered gift deeds bearing document Nos.2438 of 2007 and 2439 of 2007, dated 25.01.2007 in favour of the respondents/defendants in respect of nine guntas in Survey No.22 and .24 guntas in Survey No.974 in equal shares and ever since both the respondents/defendants had been in possession and enjoyment of the said subject land.

8. They alleged that the petitioner's vendor Mohammed Zakeer Hussain sold the suit property to the petitioner by showing their land of twenty four guntas in Survey No.974. They further alleged that the petitioner's vendor had tried to interfere with their possession of their land in Survey No.974

and so they filed O.S.No.60 of 2017 on the file of Principal Junior Civil Judge at Sangareddy for perpetual injunction against him and his henchmen and the Court in I.A.No.379 of 2017 granted adinterim injunction in their favour.

9. They stated that when some strangers had tried to dispossess them of their land on 11.11.2013 and 16.12.2013 they filed O.S.No.291 of 2013 on the file of Principal Junior Civil Judge at Sangareddy for perpetual injunction and on their application vide I.A.No.1289 of 2015 Court appointed Advocate Commissioner to identify their land with the help of their Mandal Surveyor and accordingly, the Advocate Commissioner identified their land and fixed boundaries by conducting Panchanama in the presence of Mandal Surveyor and parties and their counsel's.

10. They alleged that the petitioner along with her men had trespassed into their land in Survey No.974 on 08.05.2021, and tried to remove the boundary stones fixed by the Advocate Commissioner. They lastly alleged that the petitioner is not entitled for temporary injunction and so the petition is liable to be dismissed.

11. The petitioner got marked 75 documents as Ex.P.1 to P.75 and the respondents marked 33 documents as Ex.R.1 to R.33.

12. The trial Court after considering the pleadings and documentary evidence came to the conclusion that the petitioner made out prima facie and the balance of convenience is in her favour and by order dated 24.01.2023 allowed the petition granting temporary injunction in favour of the petitioner. Aggrieved thereby, the respondents/defendants preferred C.M.A.No.7 of 2023 and the Court of I Additional District Judge at Sanga Reddy after considering the material on record by order dated 04.08.2023, dismissed the C.M.A. confirming the order of the trial Court. Feeling aggrieved, the respondents/defendants filed the present civil revision petition.

13. The respondent/plaintiff filed counter affidavit in the present civil revision petition along with relevant documents. Heard the arguments of both learned counsel's on record and perused the record.

14. Ex.P.1 is the registered sale deed dated 24.07.1997, a perusal of the sale deed shows that the vendors therein are owners and possessors of Ac.25.16 guntas in the suit Survey numbers and that to develop the land into residential colony they divided the entire land into house plots and they sold plot No.104 which is the suit plot in favour of Mohammed Asghar.

15. Ex.P.2 is the sale deed dated 20.10.2008, executed by the said Mohammed Asghar in favour of Mahmood Ali in respect of plot No.104 i.e. the suit plot. The said Mahmood Ali sold the suit plot to Mohammed Zakir Hussain dated 22.03.2013.

16. The petitioner/plaintiff purchased the subject suit plot from Mohd. Zakir Hussain on 27.09.2018. In all those sale deeds the boundaries mentioned for the said suit plot are North: Plot No.103, South: Plot No.105 East: Plot No.107, West: 30 feet wide road. Thus, the title deed of the petitioner and its link documents as mentioned above consistently show that the suit plot is in existence within specific boundaries. They also would prove that *prima facie* the petitioner has title over the suit plot. But the contention of the respondents that what was sold to the petitioner/plaintiff under Ex.P.4, sale deed is their land in Survey N.974, but not the suit plot, is without any merit. The reasons are not far to seek. It is the admitted case of the respondents that they purchased 24 guntas in Survey No.974 under Ex.R.24, registered sale deed dated 27.09.1973. A perusal of the sale deed would show that Jalagari Pentaiah sold 24 guntas in Survey No.974 in favour of Mallaiah, the brother of the 2nd respondent. It is crucial to note that in the sale deed the boundaries of the land of 24 guntas in Survey No.974 are not given that clearly

goes to show that the vendor sold the land without identifying the land and similarly the vendee purchased the land without knowing the identity of the land. But strangely Ex.R.24 and R.26 gift deeds dated 25.01.2007 would show the boundaries for the land of 24 guntas in Survey No.974. The donor having purchased the property without knowing the identity of the land gifted the property in equal shares to the respondents by giving specific boundaries. The identity of the land as given in the gift deeds is not credible for the reason that in the link document i.e. the registered sale deed dated 29.09.1973, boundaries were not all given for the identity of the land thus, the respondents having defective title in respect of their own land cannot justifiably contend that the vendor of the petitioner sold the suit plot by showing their land in Survey No.974.

17. The Division Bench of this Court, reported in 2019 (2) ALT 287 (DB) in Palem Chandra Shekar and others v Palem Bikshapathy and others, in particular, at para 15, observed as under:

“15. It is indeed trite to state that an interim order cannot be passed by a Court in thin air. It necessarily has to be passed in relation to a particular identifiable parcel of land. In case, the

order does not relate to an identifiable parcel of land, the order itself would be meaningless. It is certainly not expected of a Judicial Officer to pass meaningless orders. Therefore, the learned trial Court was well justified in refusing to grant temporary injunction in favour of the appellants, considering the fact that the very physical location of schedule 'A' and 'B' properties is unclear from the documents submitted by the parties.

The above citation relied upon by the learned counsel for the revision petitioner is not applicable to the present case as in that case, the plaintiff could not establish the physical location of his land and so the Lower Court declined to grant temporary injunction and the order of the trial Court was confirmed in C.M.A. by the High Court. In the case on hand, the plaintiff by producing his title and link documents clearly established the physical location of the suit plot.

18. The petitioner apart from proof of *prima facie* title, established *prima facie* possession by producing Ex.P.35 to P.74 pahanis for the period from 1955 to 1958, 2019 to 2020. The trial Court as well as appellate Court after properly considering the material on record consistently held that the petitioner made *prima facie* case and observed that the balance of convenience is in her favour. The appellate Court did not commit any illegality

or impropriety in passing the order impugned in the present civil revision petition and accordingly, the Civil Revision Petition is dismissed. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SUREPALLI NANDA, J

Date: 29.112023

Note: L.R.Copy to be marked.

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