

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

+ CIVIL REVISION PETITION No.3078 of 2023

% Dated 11.01.2024

Juvvaji Ravinder
S/o Late Somaiah Aged about 46 Yrs
Occ Agriculture R/o Eeravenu Village
Palakurthy Revenue Mandal
Jangaon District and another

... Petitioners

VERSUS

\$ Jakkula Pushpaleela
W/o Late Ilaiah Aged about 62 Yrs
Occ House hold and Agriculture
R/o Eeravenu Village
Palakurthy Revenue Mandal
Jangaon District

... Respondent

! Counsel for petitioners : Sri Veera Babu Gandu

^ Counsel for Respondent : Sri Chalakani Venkat Yadav

< GIST:

> HEAD NOTE:

? CITATIONS:

1. 2010 (2) ALD 41
2. (2007) 12 SCC 201
3. (2006) 4 SCC 501
4. 2014 (2) ALD 281

THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO
CIVIL REVISION PETITION No.3078 of 2023

ORDER:

This revision petition is filed, invoking the provisions of Article 227 of the Constitution of India, aggrieved by the orders dated 22.08.2022 passed by the Additional Junior Civil Judge at Jangaon in I.A.No.784 of 2022 granting police aid for implementation of temporary injunction order dated 16.04.2021 granted in I.A.No.7 of 2021 in O.S.No.8 of 2021.

2. The revision petitioners herein are defendants and the respondent is the plaintiff in O.S.No.8 of 2021. For the sake of convenience the parties herein are referred to as they are arrayed in the suit in O.S.No.8 of 2021 before the Court below.

3. **Brief facts of the case:**

3.1. Plaintiff filed suit in O.S.No.8 of 2021 on the file of the Additional Junior Civil Judge at Jangaon seeking perpetual injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the suit schedule property. Along with the suit, the plaintiff filed application in I.A.No.7 of 2021 for seeking temporary injunction invoking the provisions of Order XXXIX Rules 1 and 2 of C.P.C. restraining the defendants from interfering with the suit schedule property i.e., agricultural land to an extent of Ac.2.00 gts in

Sy.No.486/45 situated at Eeravennu Village of Palakurthy Revenue Mandal, Jangaon District. The Court below after considering the contentions of the respective parties and also documentary evidence on record allowed the application and granted temporary injunction on 16.04.2021. When the defendants are interfering with the suit schedule property, the plaintiff filed application in I.A.No.784 of 2022 for seeking police aid invoking the provision of Section 151 of C.P.C. In the said application, the plaintiff stated that she raised paddy and cotton crop in the suit schedule property and in spite of the interim injunction order is in force, the defendants are interfering with the peaceful possession of the suit schedule property and creating nuisance. She further stated that the defendants came to the above said land on 05.07.2022 and threatened her and her labour by scolding in filthy language and tried to plough the land with the help of tractor and tried to attack her with sticks and rods. At that stage, she approached the Station House Officer, Palakurthy, and gave complaint. The police officials refused to take the complaint and expressed their inability, as the matter is civil in nature. The Court below allowed the said application and granted police aid by its order dated 22.08.2022. Aggrieved by the above said order, the defendants filed the present Civil Revision Petition.

4. Heard Sri M. Rathan Singh, learned counsel, representing Sri Veera Babu Gandu, learned counsel for the petitioners/defendants,

and Sri Chalakani Venkat Yadav, learned counsel for the respondent/plaintiff.

5. Learned counsel for the petitioners/defendants vehemently contended that the Court below, without giving opportunity to the defendants for filing counter and contest the application, passed the impugned order and the same is contrary to law. He further contended that as on the date of filing of the said application, the defendants have already filed C.M.A.No.61 of 2022 on the file of the Principal District Judge at Jangaon questioning the temporary injunction granted in I.A.No.784 of 2022. When the said appeal is pending, the Court below ought not to have granted police aid. He further contended that the application filed by the plaintiff seeking police aid under Section 151 of C.P.C. is not maintainable when she is having other remedies.

6. In support his contention, he relied upon the Division Bench judgment of this Court in **Polavarapu Nagamani and others v. Parchuri Koteswara Rao and others**¹

7. *Per contra*, learned counsel appearing for the respondent/plaintiff contended that the Court below after considering the contentions of the plaintiff and after following the due procedure as contemplated under law passed the impugned order.

¹ 2010 (2)ALD 41

8. Having considered the rival submissions made by the respective parties and after perusal of the material available on record including the impugned order passed by the Court below, it clearly reveals that the plaintiff filed application in I.A.No.784 of 2022 for seeking police aid for implementation of the temporary injunction order passed in I.A.No.7 of 2021 dated 16.04.2021. In the said application, the plaintiff specifically pleaded that in spite of the temporary injunction order is in force, the defendants came to the suit schedule property on 05.07.2022 and threatened her and her labour by scolding in filthy language and tried to attack her with sticks and rods. She further stated that as on the date of filing of the said application, the plaintiff had raised paddy and cotton crop in the suit schedule property, and to protect her possession and standing crops and also for the implementation of the injunction order, police aid is required. The Court below taking into consideration the above said facts granted police aid in favour of the plaintiff.

9. It further reveals from the impugned order that in spite of service of notice in I.A.No.784 of 2022, the defendants have not chosen to file counter and they were made set *ex parte*. Thereafter, they have not even chose to file any application before the Court below for seeking to set aside the order or requested the Court below to give an opportunity to them to file counter-affidavit. Hence, the contention raised by the learned counsel for the defendants that the Court below without giving

opportunity to the defendants passed the impugned order in I.A.No.784 of 2022 is not tenable under law.

10. Insofar as the other contention raised by the learned counsel for the defendants that if the defendants violated the temporary injunction order, the plaintiff ought to have filed an application under Order XXXIX Rule 2(A) of C.P.C. and the plaintiff is not entitled to file application seeking police aid invoking the provisions of Section 151 C.P.C. as per the principle laid down in Polavarapu Nagamani's case (supra) is not tenable under law on the sole ground that this Court while relying upon the judgments of the Hon'ble Apex Court in **Meera Chauhan v. Harsh Bishnoi**² and **P.R. Muralidharan and others v. Swamy Dharmananda Theertha Padar and others**³, in **Gampala Anthaiah and others v. Kasarla Venkat Reddy**⁴, held that when the defendant is committed breach of temporary injunction order, the plaintiff is entitled to seek police protection invoking the provision of Section 151 C.P.C. and his Lordship held that "*an order of temporary injunction has to be obeyed by the parties to it and when the plaintiff complains that the defendant is committing breach of the said order and seeks police protection, the Court is under an obligation to accord such protection. Unless this is done, the rule of law will not prevail and judicial orders would not be effectively implemented. Granting of such orders would uphold the dignity and*

² (2007) 12 SCC 201

³ (2006) 4 SCC 501

⁴ 2014 (2) ALD 281

effectiveness of the judiciary.” and further held that the view of the Division Bench in **Polavarapu Nagamani’s** case (*supra*) that an application for police protection is not maintainable if there is a violation of an injunction order passed in a suit, has to be held to be *per incuriam*.

11. It is also relevant to place on record that the injunction order granted by the Court below dated 16.04.2021 in I.A.No.7 of 2021 was confirmed by the appellate Court in C.M.A.No.61 of 2022 dated 07.10.2023. Aggrieved by the same, the defendants filed C.R.P.No.3637 of 2023 and this Court also upheld the orders passed by the Courts below and dismissed the above said CRP, by way of separate order.

12. For the foregoing reasons, this Court does not find any irregularity, illegality or jurisdictional error to interfere with the impugned order dated 16.04.2021 passed by the Court below to exercise the powers conferred under Article 227 of the Constitution of India.

13. Accordingly, the Civil Revision Petition is dismissed. No costs.

In view of dismissal of Civil Revision Petition, interlocutory applications pending, if any, shall stand closed.

J.SREENIVAS RAO, J

Date: 11.01.2024

Note: L.R.Copy to be marked: Yes
(b/o).
mar/psw