
(2008) 09 AP CK 0029
In the Andhra Pradesh High Court
Case No : C.R.P. No. 2210 of 2008

A.C. Gangi Reddy (died) and Others	Vs	APPELLANT
Kadapa Municipality		RESPONDENT

Date of Decision : 05-09-2008

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151

Citation : (2009) 2 ALD 399 : (2008) 6 ALT 224

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : S.V. Bhatt, for the Appellant;

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The petitioners filed O.S. No. 1066 of 1974 in the Court of Principal Junior Civil Judge, Kadapa, against the respondent, for the relief of perpetual injunction. The said suit was decreed on 31.03.1979 and it is stated that the decree has become final. The petitioners filed I.A. No. 1813 of 2006, u/s 151 of C.P.C., with a prayer to direct the Station House Officer, II Town Police Station, Kadapa, to depute adequate force for implementation of the decree and preservation of the property. The trial Court dismissed the same, through its order, dated 06.12.2006. The same is challenged in this civil revision petition.

2. Sri S.V. Bhatt learned Counsel for the petitioners submits that the employees of the respondent started interfering with the suit schedule property, though the decree for perpetual injunction is operating. He further submits that the trial Court did not appreciate the matter from the correct perspective and the order under revision is liable to be set aside

3. The suit filed by the petitioners was decreed way back in the year 1979. Even assuming that the respondent violated the decree for perpetual injunction, the only way, the petitioner could have ensured implementation thereof, was by filing an E.P. under the relevant Rule of Order XXI of C.P.C., if it was otherwise tenable.

The petitioner has chosen to invoke Section 151 C.P.C., which has absolutely no application for execution of a decree.

4. The petitioner relied upon several judgments before the trial Court that have a bearing upon the implementation of the orders of temporary injunction. A decree for perpetual injunction cannot be compared to an order of temporary injunction, much less, the procedure applicable for the one, can be invoked for the other. Further, more than 12 years have elapsed, from the date of decree and even assuming that there is any violation on the part of the respondent, it becomes doubtful as to whether even an E.P. can be filed at this stage. That, however, is a matter, which needs to be examined, as and when the petitioners present the E.P. The trial Court had examined the matter from the proper perspective, while dismissing the I.A. and this Court does not find any basis to interfere with the same.

The Civil Revision Petition is, accordingly, dismissed. There shall be no order as to costs.