

(1990) 12 AP CK 0018

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 3791 of 1990

Chirapareddi Veeramma and Others

APPELLANT

Vs

Sk. Mahaboob Subhani and Others

RESPONDENT

Date of Decision : 28-12-1990

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, 115

Citation : (1991) 1 ALT 366 : (1991) 1 APLJ 464

Hon'ble Judges : Jagannadha Rao, J

Bench : Single Bench

Advocate : V. Rama Rao, for the Appellant;

Final Decision : Dismissed

Judgement

Jagannadha Rao, J.—The petitioners are the plaintiffs in O.S.No. 623/90. The suit was one for grant of permanent injunction in respect of certain agricultural lands and for restraining the defendants from interfering with the plaintiffs' possession. Pending suit the petitioners filed IA. No. 849/90 for grant of temporary injunction. The defendants-respondents filed a counter stating that the plaintiffs are not in possession and that they (defendants) are in possession. After mentioning the facts of the case and the previous litigation between the parties, the learned District Munsif stated that it may not be good for the court to give a finding as to whether the plaintiffs or defendants are in possession and that therefore it would be better to direct maintenance of the "status quo". That order was passed on 16-10-1990. Thereafter, the plaintiffs filed I.A. No. 1077/90 for grant of police aid and directions to the Station House Officer, Chebrole to see that the orders in IA. No. 849/90 are implemented. They contended that they had raised the standing crop. The respondents-defendants filed a counter contending that the plaintiffs did not raise the crop and that it was the (366) defendants who raised the crop. The learned District Munsif dismissed the said application and the plaintiffs have preferred this present revision petition against the said order.

2. In this revision petition it is contended by the learned counsel for the petitioners that police aid should have been granted for implementation of the order directing status quo to be maintained. He once again contends that the plaintiffs have raised the crop and are in possession.

3. In matters relating to disputes regarding possession it is the duty of the court to decide one way or the other as to which party is prima facie in possession of the property. Unfortunately, in several cases coming up before the lower courts instead of giving a categorical finding as to which party is in possession, the courts frequently resort to granting orders for maintenance of "status quo". Before the court passes such an order, it is incumbent on the court to give a finding as to the particular status quo that it wants to be maintained viz., whether the plaintiff or the defendant is in possession and whose possession is to be maintained. The court cannot escape its duty by merely saying that status quo is to be maintained.

4. If without deciding the prima facie factual position, the court directs maintenance of status quo, there is every change of the mightier party taking law into his hands and ousting the weaker party. An order directing maintenance of status quo is capable of greater harm than even a wrong order granting or refusing temporary injunction. This is what Srinivasan J. of the Madras High Court has also observed in D. Albert Vs. Lalitha and Others, .

5. There are of course certain types of cases where such an order can be passed such as cases relating to promotions or reversions or such other matters which are governed by undisputed documents maintained by public authority. Barring cases where the facts are admitted or governed by indisputable documentary evidence disclosing the existing factual position, or the existing status quo, it will be difficult to refer to other cases where such orders could be passed. At any rate in regard to matters relating to possession when two parties claim that each of them is in possession. There is no question what-so-ever of merely directing status quo to be maintained, If the court decides that one party or other is prima facie in possession it will be easier for the appellate or revisional court to deal with the question when the matter comes up in appeal or revision. It will also be easier, if necessary, to grant police aid for maintaining the possession of one party. In some cases the plaintiff may also think of amending the plaint and converting the suit into one for possession.

6. The present case before me is a glaring instance of the difficulties that arise because of the court not giving a categorical finding in the injunction application. In view of the vague order of status quo it will be difficult to grant police aid in this case.

7. The revision petition is accordingly dismissed.