
(1994) 10 AP CK 0039

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 640 of 1994

Kondapally Sambamurthy

APPELLANT

Vs

Ramakrishna Deo and Others

RESPONDENT

Date of Decision : 21-10-1994

Acts Referred:

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

Citation : (1995) 1 ALT 3

Hon'ble Judges : Syed Shah Mohammed Quadri, J

Bench : Single Bench

Advocate : K.M. Mukundarao, for the Appellant; C.P. Sarathy, for the Respondent

Final Decision : Dismissed

Judgement

Syed Shah Mohammed Quadri, J.—The petitioner in this revision, is the plaintiff in O.S. No. 27 of 1993 on the file of the Principal District Munisff, Visakhapatnam. He laid the suit for a permanent injunction against the respondents from interfering in his possession over the suit schedule property. In the said suit, he filed I.A. No. 24 of 1993 under Order 39 Rule 1 C.P.C., praying the court to grant interim injunction in his favour. On 22-6-1993, the trial court having found that the petitioner is in possession of the suit property granted interim injunction. Dissatisfied with the said order, the respondents carried the matter in appeal before the learned III Additional District Judge, Visakhapatnam in C.M.A. No. 45 of 1993. The learned District Judge held that the possession of the petitioner was that of a licensee and therefore, he could not seek injunction against the real owner. In that view of the matter, the learned District Judge set aside the order of the trial Court and allowed the appeal of the respondents by his judgment dated 27-1-1994. It is the correctness of that order which is assailed in the present revision.

2. Shri Murali Mukunda Rao, the learned counsel for the petitioner contends that this Court in Acme Tiles and Building Products Vs. B. Sudarshan and Others, held that even a trespasser is entitled to have his possession protected and,

therefore, the possession of the petitioner must also be protected by granting an interim injunction under Order under Order 39 Rule 1 C.P.C.

3. It is true that in the above case, a learned single judge of this court took the view that a suit for injunction even by a trespasser who is in continuous possession since long time prior to and on date of suit is maintainable. But it must be remembered that the possession of the trespasser is entirely different from that of a licensee. Once the licence is terminated, the licensee has no right to remain in the possession of the property. If this be the position, the equitable relief of injunction under Order 39 Rule 1 C.P.C., cannot be granted to the petitioner whose licence to remain in possession came to an end so as to protect his possession against the true owner. In this view of the matter, I do not find any illegality muchless any error of jurisdiction in the order under revision to warrant interference of this Court. There are no merits in the revision; it is accordingly dismissed, but in the circumstances without costs.