
(2022) 11 TEL CK 0033

In the Telangana High Court

Case No : Civil Revision Petition No. 2659 Of 2015

Pagilla Venkanna, Nalgonda Dist And 2 Others

APPELLANT

Vs

Animolla Hussain Died

RESPONDENT

Date of Decision : 02-11-2022

Acts Referred:

Constitution Of India, 1950 — Article 226

Limitation Act, 1963 — Article 136

Code Of Civil Procedure, 1908 — Order 21 Rule 11(2)

Citation : (2022) 11 TEL CK 0033

Hon'ble Judges : A. Venkateshwara Reddy, J

Bench : Single Bench

Advocate : N Ashok Kumar, T Srikanth Reddy

Final Decision : Dismissed

Judgement

1. This Civil Revision Petition is filed under Article 227 of the Constitution of India by the judgment debtor Nos.1 and 2 assailing the order in Execution Petition No.157 of 2011 in O.S.No.205 of 1994 on the file of the learned Junior Civil Judge at Nalgonda.

2. Execution Petition No.157 of 2011 is filed by the decree holder under Order-XXI, Rule-11 (2) of the Civil Procedure Code, 1908 (for short 'CPC') with a prayer to send the judgment debtors 1 and 2 to civil imprisonment as they have intentionally disobeyed and violated the permanent injunction orders in O.S.No.205 of 1994 alleging that when the injunction orders were in enforce, judgment debtors 1 and 2 who are the sons of deceased-defendant No.1 viz., Pagilla Lingaiah in O.S. No.205 of 1994 have trespassed into the suit schedule land on 25.06.2011 by disobeying the orders and tried to obstruct the petitioners in attending the agricultural operations. With great difficulty, the decree holder was able to resist the interference of the judgment debtors, accordingly, prayed for committing the judgment debtors 1 and 2, who are the legal heirs of deceased-defendant No.1, to commit the civil imprisonment for violation of the

injunction orders in OS No.205 of 1994.

3. This civil revision petition is filed on the following grounds alleging that the learned Junior Civil Judge has committed irregularity in registering the execution petition, it is barred by limitation under Article 136 of the Limitation Act and that the relief of injunction is only the relief against persona and not against in rem. The injunction was obtained against the father of the judgment debtors and the execution petition is not maintainable.

4. Heard the learned counsel on both sides. The submissions made on either side have received due consideration of this Court.

5. For the sake of convenience, the parties are hereinafter referred to as decree holder and judgment debtors as arrayed in EP No.157 of 2011.

6. The decree holder in EP No.157 of 2011 has obtained judgment and decree in OS No.205 of 1994 against P. Lingam, who is the father of judgment debtors 1 & 2 on 19.10.1994 in respect of the suit schedule property- land admeasuring Ac.6.07 guntas, out of Survey No.346 situated at Dorepalli Village, Kanagal Mandal, Nalgonda District. It appears that the said Lingaiah died and thereafter, his sons started the interference in violation of the injunction order. During pendency of this civil revision petition, the respondent/decreed holder also died and his legal representatives were brought on record as per the orders in IA No.1 of 2022 dated 22.09.2022 as respondents 2 and 3.

7. The contention of the learned counsel for the revision petitioners/judgment debtors is that the relief granted in OS No.205 of 1994 for perpetual injunction against the father of judgment debtors is a relief in persona and it cannot be executed against the legal heirs of the deceased/defendant No.1 who are the judgment debtors herein. Further, as per the Article 136 of Limitation Act, the limitation for execution of the decree is only 12 years and execution petition is filed beyond 12 years from the date of decree dated 19.10.1994 in OS No.105 of 1994.

8. Perused the copy of decree filed in E.P. No.157 of 2011 wherein it is categorically mentioned that the defendants, his agents, legal heirs and anybody claiming under him were restrained from interfering with the possession of the plaintiff over the suit schedule property. Thus, though the relief of injunction is granted against the person only and it is the relief in persona, it cannot be said that the separate injunction order has to be filed whenever the legal heirs or anybody claiming under the defendant have interfered with the possession of the plaintiff. As such, I do not find any force in such submissions made by the learned counsel for the revision petitioners/ judgment debtors.

9. Secondly, the learned counsel for the revision petitioners would contend that as per the Article 136 of the Limitation Act, the limitation for filing execution petition is only 12 years. But the present execution petition is filed after 12 years and it is beyond limitation. I am afraid to accept such contention of the learned

counsel for the simple reason that as per the proviso of Article 136 of the Limitation Act, the application for enforcement or execution of a decree granting perpetual injunction shall not be subjected to any period of limitation and it makes abundantly clear that there is no such limitation either as prescribed under Article 136 or under any other Article of Limitation Act for filing execution petition in respect of a decree for perpetual injunction.

10. Thirdly, the revision petitioners have resisted this execution petition immediately when it was numbered without there being any such enquiry or detention orders. Thus, the revision petitioners have been assailing the action of the learned Junior Civil Judge in assigning the EP number, as such they have no cause of action to file the civil revision petition.

11. Therefore, in the facts and circumstances of the case, on all these grounds, as indicated above, I do not find any merit in the submissions made by the learned counsel for the revision petitioners/judgment debtors. Accordingly, I do not find any jurisdictional irregularity committed by the learned Junior Civil Judge in assigning the execution petition. The learned Junior Civil Judge shall proceed with enquiry and dispose of the execution petition in accordance with law.

12. With the above observation, the Civil Revision Petition is dismissed as devoid of merits. However, in the circumstances of the case, there shall be no order as to costs.

Miscellaneous Applications, if any pending in this civil revision petition, shall stand closed.