
(2013) 06 AP CK 0065

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 1567 of 2013

Vangeti Bal Reddy and Others

APPELLANT

Vs

Karagani Balaiah and Others

RESPONDENT

Date of Decision : 25-06-2013

Acts Referred:

Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 — Section 32, 33, 40, 91
Civil Procedure Code, 1908 (CPC) — Order 21 Rule 32, Order 39 Rule 2A, Order 9 Rule 13, 151, 94(e)

Citation : (2013) 6 ALD 104 : (2014) 1 ALT 442

Hon'ble Judges : B. Seshasayana Reddy, J

Bench : Single Bench

Advocate : Ranga Rao Nellutla, for the Appellant; E. Seshagiri Rao, for the Respondent

Final Decision : Allowed

Judgement

B. Seshasayana Reddy, J.—This Civil Revision Petition is directed against the order, dated 17.08.2012, passed in I.A. No. 811 of 2012 in I.A. No. 1152 of 2007 in O.S. No. 1022 of 2007 on the file of I Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar, whereby and whereunder the learned Additional Senior Civil Judge dismissed the application filed u/s 151 CPC seeking police aid. The petitioners are the plaintiffs and the respondents are the defendants in O.S. No. 1022 of 2007 on the file I Additional Senior Civil Judge, Ranga Reddy district at L.B. Nagar. The petitioners/plaintiffs filed the suit seeking perpetual injunction restraining the respondents/defendants from interfering with their peaceful possession and enjoyment of the suit schedule property. They claim of purchasing the suit schedule property under various registered sale deeds. They got their names mutated in the revenue records. The suit lands were Inam lands. They obtained Occupancy Rights Certificates (ORCs) from the Revenue Divisional Officer, East, Ranga Reddy District. The respondents/defendants challenged the O.R.Cs. obtained by the petitioners/plaintiffs by filing an appeal before the Joint

Collector. The said appeal ended in dismissal. They carried the matter in W.P. No. 2438 of 2005. The said Writ Petition ended in dismissal on 24.11.2010. The respondents/defendants filed application before the Mandal Revenue Officer, Saroornagar Mandal, Ranga Reddy District under Sections 32 and 40 of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950, to declare them as legal heirs of the protected tenant and restore possession of the land to them. Their application was allowed by the Mandal Revenue Officer on 30.09.2003. The petitioners/plaintiffs challenged the said order before the Joint Collector-II, Ranga Reddy District. The said appeal came to be allowed on 21.01.2006. The respondents/defendants filed CRP No. 1015 of 2006 u/s 91 of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950. The said C.R.P. came to be dismissed on the ground that provisions of Sections 32 and 40 of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 has no application in respect of the Inam lands. For better appreciation, I may refer relevant portion of the order, dated 13.03.2006, passed in C.R.P. No. 1015 of 2006, and it is thus:

Section 33 of Tenancy Act is to the effect that nothing in the Tenancy Act shall be construed to limit or abridge the right or privilege of any tenant under any law in force. If the land is Inam land immediately after coming into force of Inams Abolition Act, the inams shall be deemed to have been abolished and the land vests in the State. If the land is in occupation of the protected tenant u/s 7 of the Inams Abolition Act, such protected tenant has to approach the Inams Tribunal u/s 10 of Inams Abolition Act for registration as an occupant. It is only on such registration that a protected tenant can acquire right in respect of inam land. Therefore, the provisions of Sections 32 and 40 of Tenancy Act have no application in respect of inam land. Precisely for this reason, the Joint Collector allowed the appeal filed by the contesting respondents and the same does not suffer from any illegality.

The petitioners/plaintiffs moved I.A. No. 1152 of 2007 seeking ad interim injunction. The learned I Additional Senior Civil Judge granted ad interim injunction on 26.04.2007. The respondents/defendants filed written statement in the suit resisting the claim of the petitioners/plaintiffs. The suit came to be decreed, by judgment, dated 25.11.2011. Subsequently, the respondents/defendants filed a petition under Order 9, Rule 13 CPC and got the ex parte decree set aside. Despite the ad interim injunction against the respondents/defendants, they attempted to violate the order. Therefore, the petitioners/plaintiffs filed I.A. No. 811 of 2012 u/s 151 CPC seeking grant of police aid. The said application has been resisted by the respondents/defendants by filing counter. The factual aspect of the suit being decreed once and subsequently, decree being set aside on a petition moved by the respondents/defendants, is evident from the counter. I deem it appropriate to refer paras. 2 and 3 of the counter and they are thus:

2. I submit that the petition as filed by the Petitioner/Plaintiff is neither maintainable on facts or in law. I submit in reply to paras. 2, 3 & 4 the

allegations therein are all false, concocted and created as a counterblast to the order passed in I.A. No. 1818 of 2011 wherein the Hon"ble Court was pleased to set aside the ex parte decree passed on 25.11.2011. I further submit that the Petitioners nor the so called their vendors have no title and the agricultural land in Sy. Nos. 4, 5, 6, 7, 8 as mentioned in the petition belong to us as our father was a protected tenant and are in possession of the same. The allegation that the Petitioners ploughed the suit lands and sowed jawar crop is false and we the Respondents herein trying to interfere in the suit schedule land thus disobeying the Hon"ble Court orders and further threatening them with dire consequences and the police informing them of approaching the Civil Court and further the suit schedule properties already sold to the third parties goes to show the ambiguity and uncertainty on the part of the petitioner which are all concocted, created for the purpose of petition which is baseless, erroneous, assumptions and unfortunate and patent abuse of the process of Court by the Petitioners. I submit the suit for injunction is a personal matter and the Petitioners have not filed any declaration suit but only suit for perpetual injunction and they want to carry the order beyond the relief sought in the suit.

3. I submit that in reply to para. 5 of the petition, that the Petitioners plea that a police protection is not given in implementing the said orders is not correct. On the contrary if the police protection is given it would amount to permitting the police to interfere in the civil dispute pending before this Hon"ble Court. I further submit that the Petitioners are affluent, politically strong and comparatively they have the muscle power, as such their interference very much there resulting in filing of complaints before the M.R.O., S.H.O., Pahadeshareef and SC/ST Commission, Hyderabad, AP. The copies of the same are filed along with the counter.

The learned I Additional Senior Civil Judge, on considering the material brought on record and on hearing the counsel appearing for the parties, came to the conclusion that the order passed in I.A. No. 1152 of 2007 is only an ad interim injunction order and that the petitioners/plaintiffs are not entitled for grant of police aid, since the order passed in I.A. No. 1152 of 2007 has not reached finality and thereby dismissed the application, by order, dated 17.08.2012. Hence, this Civil Revision Petition by the petitioners/plaintiffs.

2. Heard learned counsel appearing for the petitioners/plaintiffs and the learned counsel appearing for the respondents/defendants.

3. It is contended by the learned counsel appearing for the petitioners/plaintiffs that the Court is empowered to grant police aid u/s 151 CPC in the event of there being attempt to violate the ad interim injunction order. Therefore, the order impugned in the revision petition cannot be sustained and the same is liable to be set aside. In support of his contention, reliance has been placed on the judgments of this Court in P. Shanker Rao Vs. B. Susheela, and B. Chandra Sekhar Reddy and others Vs. K. Naga Raju Yadav and another,

4. Learned counsel appearing of the respondents/defendants submits that in the event of violation of ex parte ad interim injunction order, the petitioners/plaintiffs have to work out their remedies as provided under Order 39, Rule 2-A or under Order 21, Rule 32 CPC and therefore, they cannot invoke the inherent power of the Court u/s 151 CPC to direct the police authorities to render protection to them. In support of his contention, reliance has been placed on the Division Bench Judgment of this Court in Polavarapu Nagamani and Others Vs. Parchuri Koteshwara Rao and Others,

5. The issue that calls for adjudication in this Civil Revision Petition is - whether the Court is empowered to grant police aid u/s 151 CPC in the event of threat to violate the ad interim injunction order. The issue involved in this revision petition is squarely covered by the judgment of this Court in P. Shanker Rao's case (1 supra) wherein, a learned single Judge of this Court has held as hereunder:

The observations, in my considered view should be confined to the facts of that particular case. In that case, the defendant sought police protection on the ground that the plaintiff was interfering with his possession despite the fact that the temporary injunction granted earlier in favour of the plaintiff was vacated. Thus, it is not a case where the order to extend police aid was granted in order to ensure compliance with an order of injunction in force pending the suit. The mere fact that the action could be taken against either party for flouting the injunction under Order XXXIX, Rule 2-A or under the Contempt of Courts Act does not come in the way of the Court taking all necessary steps for ensuring obedience of the injunction order. The Court need not wait till the injunction is breached. In a fit case, the Court can undoubtedly direct police aid as a preventive measure. This power though not expressly conferred, is a power incidental or ancillary to the exercise of the power to grant injunction pending the suit. With great respect, I am not in a position to record my concurrence with the broad observations made by the learned Judge that the Civil Court cannot direct police aid for execution of its order - interlocutory or final and that the party should only have recourse to the procedure laid down under Order XXI, Rule 32 or the Contempt of Courts Act. The observations are in the nature of obiter and therefore not binding on me. It is therefore unnecessary to refer the matter to the Division Bench, more so in view of the decision of this Court relied upon by the trial Court. I would however like to point out that the police aid should not be granted for mere asking. The Court has to be satisfied, prima facie, that there is an imminent threat of violation of interim order, if police does not intervene and that there is no other way of ensuring effective compliance. If however an alternative could be found such as, deploying an Officer of the Court to oversee the implementation of the order, the Court can avoid granting order for police aid.

6. In Polavarapu Nagamani & Ors.'s case (3 supra), a Division Bench of this Court has made certain observations so as to be guidance of all civil Courts in dealing with the Interlocutory Applications filed by the party obtaining an order

of injunction seeking police protection. The guidelines are:

(i) When the allegations are made by the party obtaining an order of injunction, that the said order has been violated, an application seeking police protection would not lie. The aggrieved party has to necessarily file execution petition under Order XXI Rule 32 or an application under Order XXXIX Rule 2A of CPC seeking attachment and/or arrest of the violator for contempt of the Court.

(ii) When a petition is filed seeking police protection, whether or not to exercise of power u/s 94(e) or Section 151 of CPC, the facts alleged or pleaded, an order for police protection cannot be passed in a routine manner.

(iii) If an application is filed by the person obtaining ad interim injunction alleging that there is a threat of breach, disobedience or violation of the order of injunction, subject to proof, the Court has power to order police protection imposing necessary conditions not to interfere with the life and liberty, and rights of the opposite party.

(iv) The standard of proof required in the case of threat of disobedience of injunction or alleged breach, disobedience or violation of an order of injunction should be very high and it should be in between the standard of beyond reasonable doubt and a standard of balance on probabilities. Be it noted, as held by Supreme Cou Chhotu Ram Vs. Urvashi Gulati and Another, and Anil Ratan Sarkar and Others Vs. Hirak Ghosh and Others, in all cases of contempt the plea should be proved applying the very high standard of proof and not mere affidavits or self-serving statements of the party seeking the intervention of the Court.

7. The guidelines given by the Division Bench of this Court did not give any room for doubt that application seeking police aid for threat of breach, disobedience or violation of order of injunction is maintainable. Once the order is breached or disobeyed, then the party has to take recourse to Order 39, Rule 2-A or under Order 21, Rule 32 CPC As on this day the complaint of the petitioners/plaintiffs is a threat of violation of the ad interim injunction. Admittedly, the respondents/defendants are not in possession of the property. This factual aspect can be inferred in view of the dismissal of their application filed before the Mandal Revenue Officer seeking restoration of the land vide order, dated 21.01.2006, passed in Case No. F2/7696/2003, on the file of the Joint Collector-II, Ranga Reddy District, Hyderabad, and the order, dated 13.03.2006, passed in C.R.P. No. 1015 of 2006.

8. In that view of the matter, the order, dated 17.08.2012, passed in I.A. No. 811 of 2012 in I.A. No. 1152 of 2007 in O.S. No. 1022 of 2007 on the file of I Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar, cannot be sustained. Accordingly, the Civil Revision Petition is allowed setting aside the order, dated 17.08.2012, passed in I.A. No. 811 of 2012 in I.A. No. 1152 of 2007 in O.S. No. 1022 of 2007 on the file of I Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar. As a sequel to it, I.A. No. 811 of 2012 in I.A. No.

1152 of 2007 shall stand allowed granting police aid to the petitioners/plaintiffs to prevent the disobedience or violation of the ad interim injunction order, dated 26.04.2007, passed in I.A. No. 1152 of 2007. No costs.