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**(2022) 11 TEL CK 0101**

**High Court For The State Of Telangana:: At Hyderabad**

**Case No:** Civil Revision Petition No. 4344 Of 2015

G Surender Reddy

APPELLANT

Vs

G Ram Reddy

RESPONDENT

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**Date of Decision:** Nov. 23, 2022

**Acts Referred:**

- Constitution Of India, 1950 - Article 227
- Code Of Civil Procedure, 1908 - Order 39 Rule 1, Order 39 Rule 2
- Evidence Act, 1872 - Section 74

**Hon'ble Judges:** A. Venkateshwara Reddy, J

**Bench:** Single Bench

**Advocate:** V Hanumanth Rao, K Venkatesh

**Final Decision:** Allowed

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**Judgement**

1. This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 01.05.2015 in CMA No.05 of 2014 on the

file of the Senior Civil Judge, Nagarkurnool.

2. C.M.A.No.5 of 2014 was filed by the defendants assailing the order dated 27.10.2014 in IA No.55 of 2013 in OS No.33 of 2013 on the file of the

learned Junior Civil Judge's Court, Nagarkurnool, wherein the learned Judge has allowed the application filed under Order-39 Rules 1 & 2 of the

Civil Procedure Code, 1908 (for short C.P.C.) against the defendants 1 to 4 restraining them from interfering with the peaceful possession and

enjoyment of the plaintiff over the land admeasuring Ac.2.12 guntas in Survey No.330/AA6 situated at Manthathi Village, Nagarkurnool Mandal and

District.

3. As per the orders impugned in CMA No.5 of 2014, the learned Senior Civil Judge, Nagarkurnool has set aside the orders passed by the learned

Junior Civil Judge in IA No.55 of 2013 and vacated the temporary injunction granted in favour of the plaintiff. Feeling aggrieved by the said orders in

CMA No.5 of 2014, the present Civil Revision Petition is filed.

4. Heard learned counsel for the revision petitioner/plaintiff and learned counsel for the respondents/defendants. 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 plaintiff and defendants as arrayed in the original suit.

6. The plaintiff has filed the original suit for perpetual injunction, along with the original suit IA No.55 of 2013 was filed for ad-interim injunction and

during pendency of the original suit on appreciation of the documents filed on behalf of both the parties as in Exs.P.1 to P.10 for the plaintiff and

Exs.R.1 to R.17 for the defendants allowed the said application granting temporary injunction restraining the defendants and their men from interfering

with the possession of the plaintiff over the suit schedule property. However, in CMA No.5 of 2014, the temporary injunction order dated 27.10.2014

passed in IA No.55 of 2013 was set aside on 01.05.2015.

7. Aggrieved by the same, the present Civil Revision Petition is filed before this Court and as per the proceedings dated 20.01.2016, the order dated

01.05.2015 in CMA No.5 of 2015 was suspended and the interim suspension granted on 20.01.2016 is still in force. Accordingly, the temporary

injunction granted as per the order dated 27.10.2014 in IA No.55 of 2013 in OS No.33 of 2013 is in force, in view of interim suspension of the order

impugned dated 01.05.2015 in CMA No.5 of 2014 as indicated above.

8. Be it stated that the trial Court has not believed Exs.R.6 and R.7 with an observation that the proceedings are conducted by the Revenue Inspector

and the learned counsel for the petitioner relied on the judgment between Radehy and another Vs. Board of Revenue, Uttar Pradesh and others AIR

1990 Allahabad 175 wherein it was held that the report of the Naib Tahsildar is not a public document of the nature referred to under Section 74 of

the Indian Evidence Act, 1872 and is not admissible in evidence, since it only contains the result of investigation it cannot be said to be an entry in the

public or official book. However, the Court below has placed heavy reliance on Exs.P.3 and P.4 which are pahani for the year 2012-13 and rythu

passbook and as per the Ex.P.3 certified copy of pahani for the year 2012-13, the possession of the plaintiff is recorded in respect of the suit schedule

property.

9. Though an application as in Ex.R.6 was submitted by the defendants and panchnama was conducted as in Ex.R.7 and subsequent entries were not

made and the Court below has categorically held that as on the date of filing of the original suit, the plaintiff is found in exclusive possession of the suit

schedule property and entitled for temporary injunction. But, the learned Senior Civil Judge has not considered the said document Ex.P.3 stating that

there is no mention of the year on the said pahani, stating it cannot be said that it relates to the year 2012-13.

10. On careful perusal of the documents filed by the plaintiff would show that the plaintiff was in possession of the suit schedule property as on the

date of filing of the suit. That apart, in view of the orders in IA No.55 of 2013, the possession of the plaintiff was protected and again immediately

after filing the Civil Revision Petition, the order impugned dated 01.05.2015 in CMA No.5 of 2014 was suspended, thereby the orders in IA No.55 of

2013 are continuing till date. Thus, the plaintiff is enjoying the ad-interim injunction from the time of filing of the suit, except for the interregnum period

from the date of order impugned in CMA No.5 of 2014 till the date of suspension of the same by this Court on 20.01.2016.

11. Even otherwise, as per the Case Status Information, issues were framed in the original suit way back and it is being listed under the caption

“for trial” only since 30.05.2017 without there being any progress. This original suit relates to the year 2013 ripen for trial, accordingly the Court

below shall make every endeavour for expeditious disposal of the original suit, which is almost pending for the last one decade.

12. In the result, the Civil Revision Petition is allowed. The order impugned in CMA No.5 of 2014 dated 01.05.2015 is hereby set aside, confirming the

order dated 27.10.2014 in IA No.55 of 2013 in OS No.33 of 2013 on the file of the learned Junior Civil Judge, Nagarkurnool. Considering the fact that

the original suit pending since 2013, the learned Judge of the trial Court shall make every endeavour for expeditious disposal of the original suit within

six months from the date of receipt of copy of this order. Both the parties to the suit shall cooperate with the trial Court for expeditious disposal as

directed. 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.