

APHC010107742025



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3310]

FRIDAY ,THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

CIVIL REVISION PETITION NO: 755/2025

Between:

Vaitla Rama Murthy and Others

...PETITIONER(S)

AND

Marisetty Satyanarayana

...RESPONDENT

Counsel for the Petitioner(S):

1.A K KISHORE REDDY

Counsel for the Respondent:

1.

The Court made the following:

ORDER:

This Civil Revision Petition is preferred aggrieved by the order dated 28.01.2025 passed in I.A.No.98 of 2025 in O.S.No.19 of 2025 on the file of the Principal Civil Judge,(Junior Division), Kovvur, West Godavari (for short "the trial Court").

2. The petitioners herein are the plaintiffs and the respondent herein is the defendant in the suit in O.S No.19 of 2025. The suit was filed by the

plaintiffs before the trial Court for grant of permanent injunction against the defendant, his men, agents and whoever acts on his behalf from ever interfering with the plaintiffs' peaceful possession and enjoyment of the plaint schedule property in any manner and for costs. The Suit was filed before the trial Court on 24.01.2025 along with I.A. No.98 of 2025 under Order 39 Rule 1 and 2 read with Section 151 CPC praying to grant ad-interim injunction pending disposal of the suit. The plaintiffs in their affidavit, clearly stated that, the defendant, without having any right, tried to dispossess their men in the plaint schedule properties, thereby interfering with peaceful possession. The said I.A was heard on 28.01.2025 and the trial Court has passed the following order:

“Heard the petitioner counsel. Issue urgent notice to respondent TC & RP on process. Call on 27.02.2025”

3. On a perusal of the above, it is observed that, when the suit was filed on 24.01.2025 it is not clear under what circumstances the matter was heard on 28.01.2025. Now the present Civil Revision Petition has been filed aggrieved by the order dated 28.01.2025 in ordering Urgent notice to the respondent.

4. Heard Sri A.K. Kishore Reddy, learned counsel appearing for the petitioners . Perused the material on record.

5. On hearing, learned counsel for the petitioners submits that the lower Court ought to have considered the urgency in the matter and that there is threat of dispossession of the petitioners from the suit schedule property.

It is pertinent to mention here **Order 39 Rule 1 CPC** is as follows.

1.Cases in which temporary injunction may be granted.-Where in any suit it is proved by affidavit or otherwise-

(a) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(b) that the defendant threatens, or intends, to remove or dispose of his property with a view to defrauding his creditors,

(c) that the defendant threatens to dispossess the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit, the Court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property or dispossession of the plaintiff, or otherwise causing injury to the plaintiff in relation to any property in dispute in the suit as the Court thinks fit, until the disposal of the suit or until further orders.

6. The above referred provision enables the Court to grant temporary injunction even without issuing notice to the respondents. The above provision has been made with an intention to preserve the property as it is. When any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or where the defendant threatens or intends to remove or dispose of his property with a view to defrauding his creditors or where the defendant threatens to dispossess the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit, the Court may grant a temporary injunction. Of course, the plaintiffs

have to establish prima facie case. It becomes the duty of the Courts to examine whether there is any urgency in the matter or not.

7. The Courts should go through the averments made by the party in the supporting affidavit and also the pleadings and documents filed in support of the case of the plaintiffs. When a prima facie case is made out, the Courts must grant temporary injunction and see that the plaintiff is not dispossessed in the meanwhile.

8. The urgency of passing of orders under **Order 39 Rule 1 CPC** should be kept in mind. Even where the Court is not inclined to grant temporary injunction or decides to issue urgent notice in that case also the Court should issue urgent notice and post the matter to a shortest date. The Court should examine what is the reasonable time required to serve the notice upon the respondents. Where the plaintiff undertakes to serve the notice within two or three days, the matter need not be adjourned to a longer date. It can be posted within four days or a week. When there is urgency in the matter the attitude of the Courts in posting the matter to a longer date, in fact defeat the purpose of Order 39 Rule 1 CPC.

9. In a case of **Smt. K.Vijaya Lakshmi vs G. Nageshwara Reddy and others**¹, wherein the erstwhile High Court of Andhra Pradesh at Hyderabad, observed as under:

¹ 2014 SCC OnLine Hyd 684

"Order 39 Rule 1 CPC enable the Court to grant temporary injunction even without issuing notice to the opposite party. The said provision has been made with an intention to preserve the property as it is. When any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or whether the defendant threatens or intends to remove or dispose of his property with a view to defrauding his creditors or where the defendant threatens to dispossess the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit the Court may grant a temporary injunction. The plaintiff has to establish prima facie case. It becomes the duty of the Courts to examine whether there is any urgency in the matter or not. The Court further observed that the Courts should examine what is reasonable time required to serve the notice within two or three days. The matter need not be adjourned to longer date."

10. The purpose of issuing urgent notice in Courts is address situations requiring immediate action, such as, imminent danger or threats to safety, the potential financial loss or risk of violative legal right ensuring legal system can respond that to intervene strictly in situations where irreparable harm and justice and crucial for safeguarding rights of the individual who are facing immediate threats or potential harm and further enable legal system to respond to ensure the justice is served in a timely manner, so in view of the same, urgent notice issued and usually adjourned the matter. Accordingly in this case the trial Court has issued urgent notice and on appearance of the defendant/respondent the matter has been usually adjourned for two months is not proper, moreover it is defeating the purpose of urgent notice.

11. In view of the above, this Court is of the view that there is no need to issue notice to the respondents in the present civil revision petition and this Court is inclined to dispose of the present civil revision petition at the stage of admission.

12. Accordingly, the Principal Junior Civil Judge (Junior Division), Kovvur, West Godavari District, is directed to issue notice to the respondent/defendant or their counsel and advance the matter to any date within a period of seven (07) days from the date of the receipt of a copy of this order and hear the matter within a period of seven (07) days and pass appropriate reasoned orders in accordance with law after affording opportunity to both parties.

13. With the above observation, the Civil Revision Petition is disposed of. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, shall also stand closed.

DR. K. MANMADHA RAO, J.

Date : .03.2025

Gvl

HON'BLE DR. JUSTICE K. MANMADHA RAO

CIVIL REVISION PETITION NO: 755/2025

Date : 28.03.2025

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