

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI**CIVIL REVISION PETITION No.683 of 2023****ORDER:**

The present Civil Revision Petition is filed by the petitioners, under Article 227 of the Constitution of India, seeking a direction for disposal of Interlocutory Application No.552 of 2019 in Original Suit No.1903 of 2019 on the file of the Court of IV Additional Junior Civil Judge at Vijayawada.

2. The petitioners are defendant Nos.2 and 3, respondent No.1 herein is the plaintiff and respondent No.2 herein is the defendant No.1 in the said suit, and the suit is for permanent injunction. Along with the said suit, he filed Interlocutory Application No.552 of 2019 under Order XXXIX Rule 1 and 2 read with Section 151 C.P.C, dated 06.11.2019 seeking ad-interim injunction restraining the respondents/defendants in any way creating any encumbrances either by way of sale, gift, mortgage or by entering any kind of agreements, or meddling with plaint schedule property under any document pending disposal of the suit. The Court below, *vide* order dated 21.11.2019, ordered urgent notice to

respondents and meanwhile, ordered *status quo* till 06.12.2019. In the said I.A., the petitioners herein/defendant Nos.2 and 3 filed their counter and respondent No.2 herein/defendant No.1 also filed his counter. Thereafter, the matter has been adjourned from time to time and still it is pending. Aggrieved by the non-disposal of I.A., the present Civil Revision Petition is filed.

4. Heard Sri Sai Gangadhar Chamarty, learned counsel for the petitioners.

5. Learned counsel for the petitioners, in elaboration to what has been stated in the grounds of Revision, contended that, I.A.No.522 of 2019 was filed by respondent No.1 herein, way back in the year 2019 and the petitioners herein also filed their counter on 27.02.2020 itself, but the Court below has not decided the matter till today. He further contended that, if the Court below order ad-interim injunction, it has to decide the said application within 30 days, but the same has not considered till today. In support of his contention, he relied on the judgment of the erstwhile High Court of Andhra Pradesh at Hyderabad in ***Bacharaj Singhvi v. Hastimal Kothari***¹ and also the judgment

¹ MANU/AP/0176/1980

of High Court of Telangana in ***Industries and Sprits P.Ltd v. Allied Blenders and others***².

6. Perused the material available on record. In interlocutory Application No.522 of 2019, the Court below, *vide* order dated 21.11.2019, granted *status quo*, which reads as follows:

“No caveat is pending. Heard and perused the records. In view of the circumstances, this Court is inclined to issue urgent notice to the respondents and meanwhile, directed to maintain status quo till 06.12.2019.”

Subsequently, the petitioners herein/defendants filed their counters. Even after filing counters, the Court below did not choose to dispose of the application, but only extended the interim order from time to time and posting the matter for enquiry.

7. In ***Bacharaj Singhvi’s*** case (1st cited supra), it was held that:

“2. That apart, the importance attached to the issuance of notice to the opposite side is emphasized by rule 3A, which runs as under:

3A. Court to dispose of application for injunction within thirty days: Where an injunction has been granted without notice to the opposite party, the Court shall make an

² MANU/TL/0541/2020

endeavour to finally dispose of the application within thirty days from the date on which the injunction was granted, and where it is unable to do so, it shall record its reasons for such inability.”

8. In **Industries and Sprits P.Ltd’s** case (2nd cited supra), it was held that:

“23. As regards Order XXXIX Rule 3A CPC, the same was considered by the Supreme Court in Quantum Securities (P) Limited v. New Delhi Television Limited MANU/SC/0698/2015: (2015) 10 SCC 602 and the Supreme Court observed that when an ex parte ad interim injunction is granted, the Court which is seized of the main case, should make endeavour to dispose of the Notice of Motion on merits in the light of the mandate contained in Order XXXIX Rule 3A CPC which provides that the Court shall make an endeavour to finally dispose of the Application within 30 days from the date on which the ex parte injunction was granted.”

9. In view of the above facts and circumstances of the case, as no positive direction has been sought by the petitioners herein in the present Revision, no notice is required to be ordered on the respondents. Taking into consideration the submissions made by both parties and the law laid down in the judgments cited supra,

this Court is inclined to dispose of the Civil Revision Petition with the following direction:

The Court below i.e., learned IV Additional Junior Civil Judge at Vijayawada is hereby directed to dispose of Interlocutory Application Nos.552 of 2019 in Original Suit No.1903 of 2019 on its file, at the earliest, in accordance with law by following Order XXXIX Rule 3A C.P.C, after affording an opportunity of hearing to both parties.

10. Accordingly, the Civil Revision Petition is disposed of at the stage of admission. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, shall stand closed.

JUSTICE RAVI CHEEMALAPATI

20.03.2023
MP

210

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION No.683 of 2023

20.03.2023

MP