

P.A. Ashraf Vs. A.L. Mujibur Rehman, Sagar Communication

P.A. Ashraf Vs. A.L. Mujibur Rehman, Sagar Communication

SooperKanoon Citation : sooperkanoon.com/840056

Court : Chennai

Decided On : Nov-12-2007

Reported in : (2008)2MLJ871

Judge : A. Kulasekaran, J.

Acts : Code of Civil Procedure (CPC) - Sections 151; [Constitution of India](#) - Article 226

Appeal No. : C.R.P. (PD) No. 3077 of 2007 and M.P. No. 1 of 2007

Appellant : P.A. Ashraf

Respondent : A.L. Mujibur Rehman, Sagar Communication

Advocate for Pet/Ap. : C.D. Sugumar, Adv.

Disposition : Petition dismissed

Judgement :
ORDER

A. Kulasekaran, J.

1. The defendant in O.S. No. 426 of 2007 is the petitioner in this revision petition. The respondent/plaintiff has filed the said suit before the I Additional District Munsif Court, Coimbatore, for permanent injunction against the petitioner herein.

Pending suit, the respondent has filed I.A. No. 647 of 2007 in I.A. No. 447 of 2007 in O.S. No. 426 of 2007 to give police protection on the ground that even after the order of interim injunction granted in his favour in I.A. No. 447 of 2007 on 19.02.2007, the petitioner attempted to evict him. On consideration of the same, the court below allowed the said application on 08.06.2007 and the same is challenged in this civil revision petition.

2. Heard the counsel for the petitioner and perused the records. The court below, after hearing the parties, while disposing of the said I.A. No. 647 of 2007 found prima facie that the respondent was in occupation of the petition mentioned property and that he approached it for interim injunction in I.A. No. 447 of 2007, which was granted by order dated 19.02.2007 in his favour; that even after the interim injunction was granted, the petitioner herein attempted to evict the respondent and hence, the respondent sought for police protection, which is absolutely necessary to meet the ends of justice, besides that the petitioner had not even opposed the injunction by filing counter; that the petitioner herein was not even ready to give an undertaking to the effect that he would not disobey the order passed by the court and ultimately granted police protection as prayed for by the respondent.

3. Admittedly, there is no express provision in the Code for the purpose of implementation. It cannot be said that the exercise of inherent power under Section 151 of the CPC is devoid of jurisdiction. There is no express provision in the code prohibiting the exercise of such a power of the Court and the Court can give appropriate direction at the instance of the aggrieved parties to the police authorities to render its aid for enforcement of the order in a lawful manner. Followed *Rayapati Audemma v. Pothineni Narasimham* : AIR 1971 AP53 wherein in Para-9, it was held thus:

9. If the police authorities are under a legal duty to enforce the law and the public or the citizens are entitled to seek directions under Article 226 of the Constitution for discharge of such duties by the police authorities, we feel that the civil courts can also give appropriate directions under Section 151 Civil P.C. to render aid to the aggrieved parties for the due and proper implementation of the order of Court.

It cannot be said that in such a case the exercise of the inherent power under Section 151 Civil P.C. is devoid of jurisdiction. There is no express provision in the code prohibiting the exercise of such a power of the Court and the Court can give appropriate direction at the instance of the aggrieved parties to the police authorities to render its aid for enforcement of the Court's order in a lawful manner.

4. The apex Court in the decision rendered in *Padam Sen v. State of Uttar Pradesh*) : 1961 CriLJ322 held thus:

The inherent powers of the Court are in addition to the powers specifically conferred on the Court by the Code. They are complementary to those powers and, therefore, it must be held that the Court is free to exercise them for the purpose mentioned in Section 151 of the Code when the exercise of those powers is not in any way in conflict with what has been expressly provided in the Code or against the intentions of the Legislature.

In the above case, their Lordships, with regard to the scope and ambit of inherent powers of the Court under Section 151 CPC held that in order to do justice between the parties or to prevent abuse of process of the Court, the Civil Court has ample jurisdiction to give direction to the police authorities to render aid to the aggrieved parties with regard to the implementation of the orders of the Court or exercise of a right created under orders of the Court.

5. In *Century Flour Mills Ltd. v. S. Subbiah and Anr.* 1975 II MLJ 54 a full bench of this Court held in para-8 as follows:

8. In our opinion, the inherent powers of this Court under Section 151 of the Code of Civil Procedure are wide and are not subject to any limitation. Where in violation of a stay order or injunction against a party, something has been done in disobedience, it will be the duty of the Court as a policy to set the wrong right and not allow the perpetuation of the wrong doing. In our view, the inherent power will not only be available in such a case, but it is bound to be exercised in that manner in the interest of justice....

6. In view of the above, it is clear that under Section 151 CPC, directions can be issued to the police for the execution of the decrees or orders or to render aid to the aggrieved parties for due and proper implementation of the order of temporary injunction or a decree or permanent injunction granted by civil Courts.

7. It is to be remembered whether the Court can exercise its power to grant police aid automatically pursuant to the interim order granted already or apply its mind as to the necessity of police aid. Section 151 CPC says nothing in this Code shall be deemed to limit or otherwise affect the inherent powers of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of process of the Court. All such powers, as may be necessary to do right and to undo a wrong in the course of administration of justice constitute an inherent power of the Court. The inherent power are to be exercised by the Court in very exceptional circumstances for which the Code lays no procedure.

8. In this case, the trial court pointed out that the petitioner, contrary to the order of interim injunction granted in favour of the respondent, has attempted to dispossess the petitioner, besides disobeyed the order passed by it, hence, it exercised its power to do the right and to undo a wrong in the course of administration of justice. The reasons assigned by the court below for allowing the application for police aid are perfectly valid and interference of this Court is not warranted.

9. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.