

THE HON'BLE SRI JUSTICE R. KANTHA RAO

CRP No.5007 of 2015

Order :

Heard the learned counsel for the revision petitioner. None appeared for the respondents.

This Civil Revision Petition is filed against the judgment and decree dated 15.6.2015 in ATA No.26 of 2013 passed by the District Judge, East Godavari District at Rajahmundry confirming the order passed by the Special Officer-cum-Principal Junior Civil Judge, Mummidivaram, East Godavari District (for short "the Special Officer") in ATC No.4 of 2012 dated 12.4.2013.

The revision petitioner herein is the landlord. The first respondent herein- Hotha Subba Rao filed ATC No.4 of 2012 before the Special Officer to declare him as statutory tenant under the provisions of A.P. (Andhra Area) Tenancy Act, 1956 (for short "the Tenancy Act"). In the ATC, the first respondent also filed I.A.No.211 of 2012 under Rule 19(2) of the Tenancy Act r/w Order 39 Rule 1 and 2 CPC to grant temporary injunction restraining the revision petitioner herein, his men and agents from interfering with the peaceful possession and enjoyment of the petition schedule property, pending disposal of the main petition.

It is stated by the first respondent that he is the cultivating tenant of the petition schedule land and that he was inducted as a tenant in the year 1960 by Bahumanyam Parvatha Avadhani, who is the father of the revision petitioner herein. According to him, the tenancy is oral and there is no practice of passing of any receipts between him and the revision petitioner-landlord. He submitted that the revision petitioner has been trying to sell away the property to some others infringing his tenancy rights and therefore he filed the

present petition seeking temporary injunction against him.

It was contended by the revision petitioner before the Special Officer that the 1st respondent is not the tenant of the petition schedule property and that there is no landlord and tenant relationship between the parties. The version of the revision petitioner is that he used to cultivate the property by hiring the labour and he requested the petitioner to arrange the labour for cultivation and in that context the 1st respondent used to take amounts from the revision petitioner and that 1st respondent used to obtain signatures of the revision petitioner on blank stamp papers, some of which were fabricated and filed in to the Court along with the tenancy petition. It is further submitted by him that when he wanted to sell away the property the 1st respondent, offered very low price on which he refused to sell the property to the 1st respondent and thus, according to the revision petitioner, when he refused to sell the petition schedule property to the first respondent for a paltry amount, he filed the present case setting up the false plea of tenancy.

The learned Special Officer took into consideration Exs.P.1 and P.6-land sith receipts filed by the first respondent, Ex.P.7 letter dated 21.9.2010, Ex.P.2-demand draft/pay order application dated 24.6.2011,, Ex.P.3-post card dated 10.5.2012 and Ex.P.7 letter dated 21.9.2010, which shows that the revision petitioner asked the first respondent to deposit the amount into his bank account as he was in urgent need of money, and also Ex.P.9 copy of the police report given by the revision petitioner against the first respondent stating that he is causing damage to the petition schedule property, and held that prima facie the documentary evidence establishes landlord and tenant relationship between the

parties and accordingly granted temporary injunction order in favour of the 1st respondent-tenant and against the revision petitioner restraining him from interfering with the possession and enjoyment of the petition schedule property .

Aggrieved thereby, the revision petitioner preferred ATA no.26 of 2013 before the District Judge, Rajahmundry. The learned District Judge on re-appreciating the evidence on record, totally concurred with the findings recorded by the learned Special Officer.

Now the point that falls for determination in the present revision petition is whether there is any valid ground for interfering with the order passed by the District Judge confirming the order passed by the Special Officer ?

In the first place it is required to be noticed that the tenancy can be oral under the provisions of the A.P.(A.A.)Tenancy Act. Whenever the tenant contends that the tenancy is oral, the Court has to arrive at an opinion as to the existence of the landlord and tenancy relationship having regard to the facts and circumstance of the each case. However, this revision petition is directed in relation to an order passed in an interlocutory application seeking temporary injunction and the same was granted by the Special Officer and it was confirmed by the District Judge. The learned District Judge while confirming the order passed by the Special Officer expressed the view that it is enough to arrive at a , prima facie case as to the existence of the tenancy while dealing with the interlocutory application and the conclusive view as to the relationship of the landlord and tenant can be gone into in the main tenancy petition.

Though the land revenue receipts filed by the first respondent do not by themselves establish the rights of the first

respondent, they can be considered as piece of evidence showing that the first respondent is not totally stranger to the property and he has been paying land revenue for the schedule land property. Exs.P.3 and P.7 clearly indicate that there was a demand made by the revision petitioner for payment of amount. While deciding the interlocutory injunction application, the Court has to took into consideration as to whether the petitioner would able to make out prima facie case as to the existence of tenancy he was able to show that balance of convenience lies in his favour and that if the order of injunction is not granted he will suffer irreparable loss. Considering all the aspects of the matter and also in the light of the contentions urged by both the parties including the documentary evidence adduced by the parties, I am of the considered view that both the courts below did not commit any error of jurisdiction in coming to the prima facie opinion that the first respondent is able to make out a case that he is the tenant of the schedule mentioned property and is entitled for the protection under the provisions of the A.P. (A.A.) Tenancy Act. I therefore see no merit in the Civil Revision Petition.

Accordingly, the Civil Revision Petition fails and is dismissed. No order as to costs. The Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

JUSTICE R.KANTHA
RAO

Kk/Date:23.12.2015

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