

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Civil Revision Petition No.3668 of 2015

Date: 20-02-2015

Between:

Konijeti Sreeramamurthy

.. Petitioner

AND

Durjati Sucheta and another

.. Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Civil Revision Petition No.3668 of 2015

ORDER:

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This Civil Revision Petition is directed against the order dated 19-09-2014 in I.A.No.739 of 2014 in O.S.No.821 of 2011 on the file of Principal Senior Civil Judge, Nellore dismissing the petition filed under Order 16 Rule 1 of the Code of Civil Procedure to issue summons to the witnesses in the list mentioned appended to the petition to appear before the court and to depose evidence with regard to the activities regarding criminal acts committed by the respondents with the support of their kith and kin.

2. The case of the petitioner is that he is tenant of the respondents and when they sought to interfere with his peaceful possession of the schedule property,

he filed O.S.No.821 of 2011 and obtained injunction. After closure of the evidence of the plaintiff, the present application was filed by the petitioner-plaintiff for issuance of summons to witnesses in the list appended thereto to depose about the activities regarding criminal acts of the respondents with the support of their kith and kin. The Court below dismissed the said application on the premise that the evidence of the witnesses who are sought to be summoned will not be useful to the court to decide the issues involved in the suit as the suit is filed for grant of permanent injunction against the landlord and consequently, it held that the petitioner is not entitled for summoning the witnesses and dismissed the petition. Aggrieved by the same, the present revision petition has been filed.

3. Learned counsel for the petitioner submits that the present application was filed immediately after closure of the plaintiff's evidence and the evidence of the witnesses who were sought to be summoned is very much essential and relevant for deciding the suit, but the Court below erroneously dismissed the application without considering the issue in proper perspective.

4. On the other hand, learned counsel for the respondents submits that the suit is of the year 2011 and the present application is filed after closure of the plaintiff's evidence that too in the year 2014 and the evidence of witnesses who are sought to be summoned is not relevant to the issue involved in the suit, as such, the trial court rightly dismissed the application and there is no irregularity in the order under revision.

5. The suit is filed by the petitioner-plaintiff for granting permanent injunction against the respondents, who are landlords, from interfering with the peaceful possession and enjoyment of the schedule property until he is evicted by due process of law by means of permanent injunction. It is to be noted that the defendants/respondents also filed a separate suit for eviction of the tenant, who is plaintiff herein. The Court below held that summoning of the witnesses who are sought to be summoned is not necessary and has no relevance to the issue in the suit and the suit is an injunction simplicitor basing on the tenancy and it is for the plaintiff-tenant to prove whether the tenancy is still subsisting. Since the suit is of the year 2011 and is injunction simplicitor, it can be safely concluded that the present application is filed only to drag on the proceedings. It is a settled principle of law that because of tenancy, when the suit comes for

trial, the parties who obtained injunction are in the habit of filing number of applications for one reason or the other without any basis in order to delay the suit proceedings and the present case is one where the evidence of the plaintiff is closed, the present application is filed to delay the proceedings. But, the present application is filed on frivolous and vexatious grounds only to drag on the proceedings. The Court below has rightly dismissed the application and the order under revision does not suffer from any legal infirmity warranting interference of this court in exercise of restricted revisional jurisdiction of this Court under Article 227 of the Constitution of India, and hence, the Civil Revision Petition is liable to be dismissed.

Accordingly, the Civil Revision Petition is dismissed with costs of Rs.10,000/- (Rupees ten thousand only) payable by the petitioner/plaintiff to the respondents/defendants, within a period of two weeks from the date of receipt of a copy of the order, failing which, the respondents can recover the said amount by executing the decree of this Revision Petition in accordance with law. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAJASHEKER REDDY, J

Date: 20-02-2015

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