

HON'BLE SRI JUSTICE R.SUBHASH REDDY

CIVIL REVISION PETITION No.413 of 2015

ORDER :

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners aggrieved by the order dated 16.12.2014 in I.A.No.1234 of 2014 in R.C.C.No.2 of 2012 passed by the Principal Junior Civil Judge-cum-Rent Controller, Machilipatnam, Krishna District, dismissing the application filed by them under Order 16, Rule 1 and Section 151 of C.P.C., to summon the Manager, South Indian Bank Limited, Mogalrajapuram, Vijayawada, to produce the copy of cheque and to give evidence.

2. R.C.C.No.2 of 2012 is filed by the respondents herein for eviction of the petitioners from the petition schedule property, alleging that they have purchased the property from the petitioners herein through a registered sale deed dated 4.2.2004 and the petitioners continued in possession of the property as tenants and are not paying rents. The petitioners also filed a separate suit in O.S.No.384 of 2011 on the file of the Senior Civil Judge, Machilipatnam, against the respondents herein seeking to set aside the said sale deed dated 4.2.2004 and the same

is pending. On the ground that no consideration was passed on for the amount of cheque issued by the respondents, the present application in I.A.No.1234 of 2014 is filed by the petitioners under Order 16 Rule 1 and Section 151 C.P.C., for the aforesaid relief. The said application was dismissed by the Court below through the impugned order dated 16.12.2014. Hence the present civil revision petition.

3. Heard learned counsel for the petitioners and perused the impugned order.

4. It is to be noticed that the aforesaid R.C.C. is filed by the respondents for eviction of the petitioners from the petition schedule property basing on the title acquired by them pursuant to the registered sale deed dated 4.2.2004. It is not in dispute that the petitioners have already filed a separate suit in O.S.No.384 of 2011 seeking to set aside the said sale deed and the same is pending. Therefore, there is no issue involved for declaration of title in R.C.C.No.2 of 2012. If the sale consideration is not passed on, it is for the petitioners to prove the same on their own in suit O.S.No.384 of 2011 filed by them seeking to set aside the sale deed dated 4.2.2004, but they cannot seek to summon the Bank Manager to produce copy of cheque and to give evidence.

5. In view of the reasons assigned by the Court

below, this Court is of the view that there are no merits in this revision warranting interference by this Court under Article 227 of the Constitution of India.

6. For the aforesaid reasons, this civil revision petition is devoid of merits and is accordingly dismissed. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH

REDDY
13.02.2015.
Msr

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