

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.5201 of 2015

ORDER :

This civil revision petition is filed under Article 227 of the Constitution of India, by the defendants in the suit in O.S.No.1118 of 2014 on the file of XIX-Junior Civil Judge, City Civil Court, Hyderabad, aggrieved by order, dated 26.08.2015, passed in I.A.No.189 of 2015.

2. The suit is of 2014, filed by respondent herein, for eviction of petitioners, based on the quit notice issued under Section 106 of the Transfer of Property Act. It is the case of petitioner/defendants that they are having different tenancies in respect of 3 mulgies and separate rents are being paid, as such, the civil Court lacks jurisdiction. Therefore, seeking to frame the issue relating to jurisdiction as preliminary issue in the suit, they have filed I.A.No.189 of 2015, which was contested by the respondent herein by raising the plea that the entire unit is one and rent being paid is Rs.5,800/- and such rent is being paid under one cheque. In view of the stand of respondent, the trial Court has declined to frame the issue relating to jurisdiction as preliminary issue and recorded a finding that such issue can also be considered at the time of disposal of the suit, as the same is a mixed question of law and fact.

3. It is submitted by the learned counsel for petitioners in this revision petition that petitioners 2 to 4 are having separate tenancies in respect of separate mulgies and there are separate electricity metres and separate rent is being paid, and hence, there is no reason to accept the contention of respondent that the tenancy is common. Learned counsel has placed reliance on the judgment of this Court in **State of Andhra Pradesh & another v. Bandalam Srinivasulu & others**.

4. Having heard learned counsel for petitioners, I have also perused the material on record.

5. Though it is the case of petitioners that all the three mulgies are covered by separate tenancies, the stand of respondent is that it is one premises with common tenancy and the rent is Rs.5,800/- per month, which is being paid by way of a single cheque. Whether there is only one premises or there are three different premises covered by three different tenancies, is a matter to be established after trial. As the suit is of 2014, there is no reason for framing preliminary issue to be decided at this stage. Having regard to the factual disputes, the judgment relied on by the learned counsel for petitioners will not support the case of petitioners.

6. For the aforesaid reasons, I do not find any merit in this civil revision petition, which is accordingly dismissed. However, it is open to the Court below to frame an issue as to whether there is single tenancy for all the 3 mulgies or there are different tenancies and the same shall be decided along with the other issues at the time of trial.

Pending miscellaneous applications, if any, shall stand closed. No costs.

R. SUBHASH REDDY, J

21st December 2015

ajr