

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND
THE STATE OF ANDHRA PRADESH**

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C.R.P.No.2674 of 2015

Between:

Narsimha Vijay Kumar Kona

.. Petitioner

and

Nakka Srinivas

.. Respondent

DATE OF JUDGMENT PRONOUNCED: July 17, 2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

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|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals? | Yes/No |
| 3. Whether their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

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CIVIL REVISION PETITION No.2674 OF 2015

ORDER:

This revision petition, under Article 227 of the Constitution of India, is filed by the plaintiff in O.S.No.1799 of 2013 on the file of XVII Additional Senior Civil Judge, City Civil Court, Hyderabad, aggrieved by the order, dated 10.09.2014, passed in I.A.No.199 of 2014 in the said Suit.

Petitioner filed the aforesaid Suit for eviction and to pay arrears of rent. Pending Suit, he filed the present I.A., under Order XVA read with Section 151 CPC, seeking to direct the respondent to pay arrears of rent to the tune of ` 2,24,000/- and continue to pay monthly rent at ` 7,000/- to him or to the credit of the Suit.

Respondent filed counter affidavit in the I.A. denying the relationship of landlord and tenant and stated that he is none other than the foster brother of the petitioner and both of them were brought up by their maternal uncle and his wife, namely Sri Kona Appala Narayana and Smt. T. Rukmini. It is further stated that Smt. T. Rukmini has executed a Will Deed on 08.08.2004 and in view of the same, he acquired rights to the suit schedule property and is residing in the schedule property as an absolute owner.

The Court below, in the absence of any *prima facie* evidence establishing that the respondent is in possession of the suit schedule property as a tenant, has dismissed the I.A. by the impugned order.

In this revision petition, it is contended by the learned counsel for petitioner that the respondent is in possession of the suit schedule property as a tenant by paying ` 7,000/- per month as rent and an amount of ` 2,24,000/- is due towards arrears of rent.

As the respondent is specifically denying the relationship of landlord and tenant on the ground that he is absolute owner of the suit schedule property by virtue of Will Deed, dated 08.08.2004, and as the respondent is none other than the foster brother of the petitioner and both of them were brought up by their maternal uncle and his wife, who executed the Will Deed, dated 08.08.2004, in the absence of any material to show that the respondent is in possession of the suit schedule property as a tenant, the trial Court has rightly dismissed the I.A.. However, with regard to the claim of the petitioner, it is a matter to be gone into in the Suit. Hence, this Court does not find any merit in this revision petition, so as to interfere with the impugned order.

Accordingly, the revision petition is dismissed. Miscellaneous Petitions, if any, pending in this revision petition shall stand closed. No costs.

R. SUBHASH

REDDY, J
July 17, 2015
MD