

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.3523 of 2015

ORDER :

This Civil Revision Petition filed by the petitioner under Articles 227 of the Constitution of India impugning the dismissal order of the learned District Judge, Kadapa in C.M.A.No.9 of 2015 dated 10.07.2015 which appeal is preferred against the I.A.No.1809 of 2014 in O.S.No.420 of 2014 on the file of the learned Principal Senior Civil Judge, Kadapa.

2. The suit was filed by the so called tenants under the respondents who are the plaintiffs on the lease in the public auction for a period of 5 years commencing from September/ October, 2008, and there is a clause in the deed that if the lessee is not defaulter (plaintiff), the Hospital Development Society of defendants is competent to renew lease for a period of three years at a time and enhancement of rent by 33.1/3% but the defaulter/leaseholder will not be granted extension of lease.

3. A reading of the clause speaks continuing of competency of the hospital committee for renewal and also if not defaulter, to consider. The prayer in the suit is that despite of representation expressing willingness for renewal of the lease with 33.1/3% as per the above terms in writing, there is no response from the defendants however, without giving response they are taking law to their hands forcibly to get the tenants vacated from the premises taking advantage of the original lease period expired that is the sum and substance of the prayer in the suit for bare injunction, by a tenant by sufferance for nothing to say he is even a tenant of holding over after expiry of lease. The Courts below in the temporary injunction application did not consider the request for not making out the three pre-requisite mandatory requirements of prima facie case, balance of convenience and irreparable injury apart from the other requirements herein of the public interest for the property belongs to the State limb and not of a private person as additional consideration, not granted the temporary injunction thereby confirmed in appeal also. As went unsuccessful the plaintiff/petitioner now presented the revision petition.

4. There is nothing to show without protest rent is accepting and that cannot be even a contention available from very plaint and temporary injunction petition averments that the defendants are trying to dispossess for not to continue in his premises is

suffice to say, they are not tenants holding over but tenants by sufferance. The tenant by sufferance is at par with a trespasser in the eye of law and thus cannot be entitled to any protection, that too, against the landlord a true owner. That is the sum and substance by referring to catena of expressions arrived at by the trial Court as well as the lower appellate Court.

5. Practically for this Court within the limited scope under Article 227 of the Constitution of India to sit in revision, there is nothing to interfere but for to say the respondents/defendants cannot dispossess the petitioner/plaintiff except through due process of law though he is not entitled to the equitable relief of injunction for his continuing unauthorizedly.

6. Having regard to the above, the revision is disposed of. Consequently, miscellaneous applications, if any, pending in these Revisions stands closed.

Dr. B. SIVA SANKARA RAO, J

Date:02.09.2015

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