

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL MISCELLANEOUS APPEAL No.376 of 2013

Date: 10.02.2015

Between:
Garapati Ashok Kumar,
Vijayawada.

..... Appellant

AND

M/s. Shanti Housing and Estates (P) Ltd.,
Guntur and another

.....Respondents

Counsel for the Appellant: Mr. Y. Rama Rao

Counsel for the Respondent No.1: Mr. C. Raghu

Counsel for the Respondent No.2: Mr. N. Bharat Babu

The Court made the following :

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ORDER:

This Civil Miscellaneous Appeal arises out of order dated 21.02.2013 in I.A.No.1008 of 2012 in O.S.No.416 of 2012 on the file of the learned IV Additional District Judge, Guntur.

The appellant has filed the aforementioned suit against respondent No.1 for permanent injunction restraining it from interfering with his peaceful possession and lease hold enjoyment of the suit schedule premises except by due process of law.

It is the case of the appellant that respondent No.1 has entered into the registered lease agreement dated 03.12.2010 under which it has granted lease of the suit schedule property till the end of June, 2012 and that by an oral agreement, the said lease was extended for a period of two years from 01.12.2012. As respondent No.1 was allegedly interfering with the appellant's possession, he has filed the aforementioned suit. Along with the suit, he filed I.A.No.1008 of 2012 for temporary injunction. By order dated 21.02.2013, the lower Court has dismissed the I.A by holding that the appellant has lost physical possession and that the premises was subsequently leased out to respondent No.2 herein under Ex.B.5. Feeling aggrieved by the said order, the plaintiff filed this appeal.

Mr. C.Raghu, learned counsel for respondent No.1, submitted that the conditional interim order passed by this Court to the effect that the appellant shall pay rent at the rate of Rs.1,00,000/- per month from May, 2013 is not complied with by the appellant.

Mr. N.Bharath Babu, learned counsel for respondent No.2, who has been impleaded during the pendency of this appeal, submitted that the subsequent lease granted to his client also expired and that possession was taken by respondent No.1 from his client on expiry of the said lease.

Irrespective of the correctness of the finding of the lower Court regarding possession, even taking note of the averments of the appellant raised in the plaint on their face value, it is evident that even the alleged oral lease has also expired by 01.12.2014, and therefore, the very cause on which the I.A was filed abated. In the light of this undisputed fact, the

appellant is not entitled for the relief of injunction as claimed in I.A.No.1008 of 2012.

For the above-mentioned reasons, the Civil Miscellaneous Appeal is dismissed.

As a sequel to dismissal of the Civil Miscellaneous Appeal, interim order dated 29.04.2013 is vacated and C.M.A.M.P.Nos.865 of 2013 and 1426 of 2014 are disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

Date: 10.02.2015

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