

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.2116 of 2015

ORDER: *(Per Hon'ble Sri Justice R. Subhash Reddy)*

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed aggrieved by the order dated 16.04.2015 in I.A.No.182 of 2015 in O.S.No.2183 of 2012 passed by the I-Senior Civil Judge, City Civil Court at Hyderabad, whereby the application filed under Order VII Rule 11 (a) of CPC by the petitioner/defendant seeking to reject the plaint, was dismissed.

The respondent/plaintiff filed the aforesaid suit against the petitioner/defendant for eviction and recovery of arrears of rent in respect of the petition schedule property bearing Municipal No.15-4-44 situated at Gowliguda Chaman, Hyderabad. On the ground that there is no cause of action, the petitioner filed the present I.A., seeking rejection of the plaint. By the impugned order, the Court below dismissed the I.A.

Heard learned counsel for the parties.

It is the case of the petitioner/defendant that initially he was let out the ground and first floors of the schedule premises by the respondent and to that effect, a lease deed was also executed in the year 2005 for a period of five years. It is his further case that after expiry of the

lease period, on a request made by the respondent, first floor premises was surrendered and only ground floor is retained by him for further period of ten years as per clause (4) contained in the original lease deed and, as such, there is no cause of action for filing the suit and the suit is not maintainable.

On the other hand, it is the case of the respondent/plaintiff that the period of lease for five years expired and thereafter there is no renewal of lease for ten years as stated by the petitioner. It is also stated by the respondent that since the petitioner is in illegal possession of the subject property, she got issued legal notice to the petitioner and thereafter filed the present suit by disclosing the cause of action.

It is not in dispute that the petitioner filed a suit in O.S.No.726 of 2014 on the file of the same Court, seeking specific performance, and the same is clubbed with the present suit. The only ground on which rejection of plaint is sought, is that there is no cause of action for filing the suit, as much as the lease deed contained a clause for extension of lease period for ten more years, but the same is disputed by the respondent. In view of the specific dispute with regard to extension of lease and having regard to the claim of the petitioner in O.S.No.726 of 2014 filed for specific performance, plaint cannot be rejected under Order VII Rule 11 (a) of the CPC. Moreover, it is to

be noticed that the suit is filed in the year 2011 and the present I.A is filed in the year 2015.

For the aforesaid reasons and having regard to the reasons recorded in the impugned order, I do not find any illegality in the impugned order warranting interference of this Court in exercise of power under Article 227 of the Constitution of India.

Accordingly, the revision is dismissed. No order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE R.SUBHASH

REDDY

19th June, 2015

v v