

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

Writ Petition No.17526 of 2012

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Dated 02nd June, 2015

Between:

Dr.BSR Industrial Training Institute

...Petitioner

And

The Chief Executive Officer, Sri Potti Sriramulu Nellore District Cooperative Central Bank Limited, Nellore and others

...Respondents

Counsel for the petitioner: Sri K.Muralidhar Reddy

Counsel for the respondents: ----

The Court made the following:

ORDER:

This writ petition is filed for a mandamus to declare the action of the respondents in evicting the petitioner from building bearing D.No.7/118 situated in Survey Nos.992-2B, 995-2A, 999-1 and 998-2 of Tenkayathopu, Atmakur Town, SPSR Nellore District as illegal and arbitrary.

The petitioner was in possession of the premises belonging to Sri Potti

Sriramulu Nellore District Cooperative Central Bank Limited and running an industrial training institute. The petitioner pleaded that the lease was being renewed in its favour once in every five years and that the lease last renewed was in 2001 for a period of five years on the revised rent of Rs.2,000/- per month. That when the respondents sought to put the premises to public auction, the petitioner filed O.S.No.134 of 2001 on the file of the learned Junior Civil Judge, Atmakur and secured an interim order of injunction. Eventually, the said suit was decreed on 28.04.2003 granting perpetual injunction restraining respondent No.2 from evicting the petitioner from the leased premises. The petitioner further averred that despite subsistence of decree for injunction, the respondents proposed to hold public auction on 12.05.2003.

The petitioner referred to an interim order passed on 27.06.2011 in W.P.M.P.No.21502 of 2011 in W.P.No.17879 of 2011 filed by a lessee of another building belonging to the respondents.

For more than one reason, this writ petition is liable to be dismissed. In the first place, the pleadings of the petitioner are wholly incohesive. In para-6 of the affidavit, the petitioner has averred that about one week prior to the filing of the writ petition, the respondents have tried to evict the institution and that with great difficulty, they have resisted the same. However, in the prayer, the petitioner sought for a declaration that the action of respondent Nos.1 and 2 in evicting the petitioner from the building without following due process of law is in violation of the judgment and decree, dated 28.04.2003. Though the petitioner has pleaded that there is a proposal to conduct public auction on 12.05.2003, it has not stated as to whether such public auction was held. The petitioner has also not disclosed the immediate cause of action for approaching this Court.

Be that as it may, the grievance of the petitioner is that despite subsistence of a decree for perpetual injunction, the respondents have dispossessed/been trying to dispossess it. In my opinion, the petitioner has availed an inappropriate remedy by invoking the jurisdiction of this Court under Article 226 of the Constitution of India as it is left with effective remedies under CPC as well as Contempt of Courts Act, 1971 to protect its interests in the event of violation/proposed violation of the decree of a civil Court. Instead of availing such remedies, the petitioner has filed this writ petition which in my opinion is wholly misconceived.

For the above-mentioned reasons, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, interim order, dated 14.06.2012, shall stand vacated and W.P.M.P.No.22454 of 2012 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

02nd June, 2015

VGB