

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.3513 of 2015

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the claim petitioner in E.A.No.115 of 2013 in E.P.No.159 of 2012 in O.S.No.912 of 2008 aggrieved by the order dated 21.08.2015 passed in I.A.No.889 of 2015 in A.S.No.169 of 2015 by the X Additional Chief Judge, City Civil Court, Hyderabad.

The 1st respondent herein is the plaintiff in O.S.No.912 of 2008 on the file of the IV Senior Civil Judge, City Civil Court, Hyderabad. The said suit filed against respondents 2 to 4 for eviction is decreed and confirmed in appeal by the first appellate court, this court and also the Hon'ble Supreme Court.

The 1st respondent filed E.P.No.159 of 2012 against respondents 2 to 4 herein. The petitioner filed E.A.No.115 of 2013 under Order XXI Rules 97 to 101 CPC claiming title to the suit schedule property. The said E.A. was pending from the year 2013 and ultimately dismissed by the trial court against which petitioner carried the matter in appeal vide A.S.No.169 of 2015 on the file of the X Additional Chief Judge, City Civil Court, Hyderabad.

Respondents-defendants 2 to 4, after disposal of E.A.No.115 of 2013, also filed E.A. (Sr.) No.3955 of 2015 in E.P.No.159 of 2012. The same was dismissed and

confirmed by this court in C.R.P.No.3379 of 2015 by order dated 28.08.2015.

Petitioner, in the appeal filed by him, i.e. A.S.No.169 of 2015, filed I.A.No.889 of 2015 to stay execution of the decree passed in O.S.No.912 of 2008 mainly on the ground that the

1st respondent-decree holder had no title to the property, as much as the vendor of the property was not alive on the date of execution of sale deed by the General Power of Attorney. The said I.A., is dismissed by the impugned order.

Heard Sri S. Niranjan Reddy, learned counsel for the petitioner and Sri J. Prabhakar learned counsel for the 1st respondent.

In this case, it is not in dispute that the 1st respondent, claiming the suit schedule property which is house property, has inducted respondents 2 to 4 as tenants. When they have not vacated the premises, petitioner filed O.S.No.912 of 2008 and the same is decreed after contest. The petitioner herein, undisputedly, is not in possession of the property and the same is evident from the findings recorded in the aforesaid suit. Petitioner, at no point of time, claimed possession; however he is trying to set up his independent title to the suit schedule property and E.A., filed by the petitioner is already dismissed. It is true that the appeal filed by the

petitioner in A.S.No.169 of 2015 is pending. But, at the same time, to seek stay of execution of the decree, petitioner cannot claim possession.

On the other hand, learned counsel for the 1st respondent-decree holder has filed an affidavit in which it is stated by the

1st respondent-decree holder that he will not alienate or encumber the E.P. schedule property till the disposal of A.S.No.169 of 2015 on the file of the X Additional Chief Judge, City Civil Court, Hyderabad.

In that view of the matter and, further, as this Court is of the view that there is no balance of convenience in favour of the petitioner, no interference is called for with the impugned order.

Accordingly, the Civil Revision Petition is disposed of placing on record the aforesaid undertaking given by the 1st respondent, with a further direction to the learned X Additional Chief Judge, City Civil Court, Hyderabad, to dispose of A.S.No.169 of 2015 as expeditiously as possible preferably within a period of four months from the date of receipt of this order. No order as to costs.

As a sequel, miscellaneous petitions if any pending in the C.R.P., stand closed.

R. SUBHASH REDDY, J

28th August 2015
MRR

