

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

CIVIL REVISION PETITION NO.2571 of 2016

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ORDER:

This revision petition arises out of the dismissal of an application filed by the petitioner herein, who is the 2nd defendant in the suit, seeking to summon the Commissioner of the Municipality and the Assistant Labour Officer for the purpose of speaking as to who is in possession of the suit property.

Heard Mr. Narasimha Rao Gudiseva, learned counsel for the petitioner.

One Mr. Mohammad Nawab jani filed a suit against one Mr. Yakkala Ramakrishna Mohana Rao, seeking the relief of recovery of possession on the ground that the sole defendant, who was a lessee of the suit property, was liable to be evicted after the expiry of the period of lease. Pending the suit the plaintiff died and his legal representatives have been brought on record.

The petitioner herein impleaded himself by filing an application in I.A.No.235 of 2014, on the ground that he was an authorized sub-tenant under the original lessee and that any order of eviction passed against the original lessee will cause hardship to him. The application was allowed and he has been impleaded as the 2nd defendant to the suit.

When the suit was taken up for trial, the petitioner herein marked certain documents as exhibits to prove that he has been in possession and enjoyment of the suit property ever since 2007 under an oral lease said to have been granted by the original tenant for a period of 25 years. After filing such documents, the petitioner also took out an application under Order XVI Rule 1 of C.P.C., to summon the Commissioner of Municipality and the Assistant Labour Officer, for the purpose of giving evidence and for the production of certain records to

prove the possession of the petitioner. The trial Court dismissed the said application forcing the petitioner/2nd defendant to come up with the above revision.

I find no ground to interfere with the order of the Court below. The petitioner has admittedly filed certain documents as Exs.B.5 to B.12 to prove his possession. According to the petitioner, he has got electricity receipts for the period from March, 2013 to December, 2015. He has also produced the municipal notices. After having produced them, the petitioner cannot summon the Municipal Commissioner or the Labour Officer.

Neither the Labour Officer nor the Municipal Commissioner can speak about any of the exhibits marked by the petitioner. When a party to a civil suit claims to be in possession of the property, he must establish the same with his own evidence. He cannot seek to establish the same through third parties. Therefore, dismissal of the petition by the trial Court cannot be faulted. Hence the Civil Revision Petition is dismissed. There shall be no order as to costs.

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

JUSTICE V. RAMASUBRAMANIAN

15th June, 2016
Js.