

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

C.R.P.No.4870 of 2016

Date:14.10.2016

Between:

S.V.V.Pramila Rani,

W/o S.V.V.Nageswara Rao

..... Petitioner

And:

Rednam Sooria Row and Dharma Row

Charities, repto by its Secretary and

Treasurer-P.S.Rama Krishna

....Respondent

Counsel for the petitioner: Mr. KChidambaram

Counsel for the respondent: Mr. G.Nagesh



The Court made the following:

ORDER.

This Civil Revision Petition arises out of order, dated 02.9.2016, in E.P.No.3 of 2016 in R.C.C.No.53 of 1999 on the file of the learned IV Additional Junior Civil Judge, Visakhapatnam.

I have heard Mr. K.Chidambaram, learned counsel for the petitioner and Mr. G.Nagesh, learned counsel for the respondent.

The petitioner was the tenant of the respondent. As he failed to vacate the premises even after the expiry of the lease period, the respondent has filed RCC.No.53 of 1999 for his eviction. The said RCC was allowed by the lower Court by order, dated 10.9.2004. The petitioner was unsuccessful in RCA.No.10 of 2004 before the Principal Senior Civil Judge, Visakhapatnam with the dismissal of the said appeal by order, dated 27.9.2006.

The petitioner has filed Civil Revision Petition No.5155 of 2006 questioning the said two orders passed in the RCC and the RCA. Pending the said Civil Revision Petition, the petitioner had the benefit of interim order, as a result of which, he continued in possession of the demised premises. Eventually, this Court by order, dated 15.02.2013, has dismissed the Civil Revision Petition and permitted the petitioner to continue in possession for six months on his giving an undertaking that he will hand over vacant possession of the property to the respondent by

15.8.2013. As the petitioner went back on his undertaking and failed to hand over the vacant possession of the property to the respondent, the latter was constrained to file the aforementioned E.P. For the first time in the said E.P., the petitioner has come out with the plea that vide proceedings in RC.No.A1/1794/2011, Admn, dated 08.3.2011, the Endowments Department had taken over the said property and that therefore, the respondent was not entitled to delivery of the property. This plea was rejected by the lower Court and the E.P. was allowed.

As rightly observed by the lower Court, the petitioner failed to plead the fact of the alleged taking over of the property by the Endowments Department in the Civil Revision Petition and that on the contrary, he has given an undertaking that he will deliver vacant possession of the property on the expiry of six months by 15.8.2013.

In my opinion, the petitioner cannot be permitted to approbate and reprobate having derived the benefit of continuing in possession of the property for six months even after the dismissal of the Civil Revision Petition on the strength of the undertaking given to this Court and raise this specious plea of the alleged taking over of the property by the Endowments Department.

Mr. G.Nagesh, learned counsel for the respondent, has submitted that though a proceeding was issued on 08.3.2011,

appointing a trustee to manage the affairs of the respondent, no oath was administered to the trustee and that, as of now, no one other than the family of the founder of the respondent is in management.

In the light of the above discussion, I do not find any merit in the Civil Revision Petition and the same is, accordingly, dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.6329 of 2016 filed by the petitioner for interim relief is dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

14th October 2016
DR

