

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION Nos.5129 & 5137 of 2014

COMMON ORDER:

Since the issue involved in both these Revision Petitions and the parties are one and the same, these Civil Revision Petitions are being disposed of by this common order.

2. These two Civil Revision Petitions, under Article 227 of the Constitution of India are filed by the petitioners/appellants in M.A.No.152 of 2014 on the file of the Court of the learned Chief Judge, City Small Causes Court, Hyderabad. CRP No.5129 of 2014 is directed against the order dated 02.12.2014 passed in I.A.No.710 of 2014 filed for summoning a witness for giving evidence and production of documents. CRP No.5137 of 2014 is directed against the order dated 04.08.2014 passed in I.A.No.574 of 2014 filed for grant of stay of all further proceedings, pursuant to the notice dated 30.07.2014 issued by the respondents for demolition of the property which is impugned in the aforementioned Municipal Appeal.

3. I have heard the submissions of the learned Standing Counsel appearing for the revision petitioners and the learned counsel for the respondents. I have perused the material record.

4. When these two revision petitions came up before this Court on 30.01.2015, this Court, having heard the learned counsel for the parties, passed the following common order:-

“Heard learned counsel for the parties.

Learned counsel for the respondent on instructions submits that both the respondents, without prejudice to their rights and contentions, shall vacate the disputed premises on or before 17.02.2015. His submission is recorded and accepted. CRP to come up for further hearing on 20.02.2015.

It is needless to mention that if the respondents vacate the premises, as aforementioned, their legal right in the premises, if any, shall remain intact and if necessary it is open for them to approach the appropriate Court for protecting their right and interest in the property.”

5. The learned counsel for the respondents would submit that pursuant to the interim orders of this Court dated 30.01.2015, the respondents have vacated the subject premises and kept it under lock and key with a view to handover the possession of the same to the revision petitioners, but the revision petitioners had highhandedly demolished the property on the evening of 04.03.2016 and in the intervening night of 4/5.03.2016 and that in the circumstances, the respondents are entitled to reap the benefits of the earlier orders of this Court and that therefore, an order may be passed accordingly. The learned counsel brought to the notice of this Court certain photographs of the building and also the caveat petition said to have been lodged by the respondents *inter alia* contending that the revision petitioners have handed over the property after such demolition to the land owners.

6. On the other hand, the learned Standing Counsel appearing for the revision petitioners would submit that it is the landlords who have demolished the subject property but not the revision petitioners and that the Municipal Appeal in M.A.No.152 of 2014 was dismissed for default on 30.07.2015 and hence, these two Civil Revision Petitions, which are filed by the revision petitioners assailing the orders in the interlocutory applications, have become infructuous. He would also submit that a part of the subject property is affected in road widening and that in regard to the further details on the said aspect, he requires to secure further instructions.

7. Now that the Municipal Appeal is dismissed and the causes in both these Civil Revision Petitions do not survive for adjudication, the only question for consideration in both these Civil Revision Petitions is as to whether the respondents should be given an opportunity to reap the benefits of the orders of this Court dated 30.01.2015.

8. I have bestowed my attention to the facts and I have given earnest consideration to the submissions.

The interim order dated 30.01.2015 passed by this Court, reads as under:-

“It is needless to mention that if the respondents vacate the premises, as aforementioned, their legal right in the premises, if any, shall remain intact and if necessary it is open for them to approach the appropriate Court for protecting their right and interest in the property.”

The respondents now contend that they had vacated the premises pursuant to the above interim order only and that there after the subsequent events, which are urged on their behalf, had occasioned. Be that as it may. Even in the absence of any order of this Court, if any legal right is available to the respondents, they can always seek appropriate remedy, as the legal maxim ordains “*ubi jus ibi remedium*” (Where there is a right, there is a remedy). Therefore, in the well-considered view of this Court, both these Civil Revision Petitions can be dismissed as infructuous with the following observations.

9. Accordingly, both these Civil Revision Petitions are dismissed as infructuous, observing that the respondents, who had admittedly vacated the premises, if they so choose and are so advised, may approach the appropriate forum or Court for protecting their rights and interests in the properties and for seeking appropriate remedies, which the law permits.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in both these Civil Revision Petitions, shall stand closed.

M.Seetharama Murti, J

10th March, 2016
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