

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.4182 of 2016

ORDER:

Impugning the legality and correctness of the order of the Chief Judge, City Civil Court, Hyderabad, in C.M.A.No.121 of 2013 dated 27.06.2016, maintained by the unsuccessful appellants therein against the proceedings issued by the Estate Officer, APSRTC, invoking Andhra Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short 'the Act') in ordering eviction as per Section 4 of the Act, holding they are in illegal occupation, with a direction to vacate on or before 31.10.2013, from the property covered by 590 square feet with door No.19-3-1089 which includes and form part of Ac.4-05 guntas of the land of APSRTC, that was conferred by the Government vide G.O.Ms.No.289 dated 13.05.1988 in favour of the RTC who also claims obtained possession pursuant to it on 23.05.1988 and while in possession, the revision petitioners allegedly encroached subsequently unauthorizedly, the revision is maintained.

The contentions in the grounds of revision vis-à-vis oral submissions are that the lower Court in the appeal did not apply its mind to the contention of the revision petitioners are in occupation of the site in door No.19-3-1090=new 1090/1 and not the premises in door No.19-3-1089 and it is their claim that they are in possession of the property for the past 50 years since their predecessors in interest having entered originally as lessees and subsequently they acquire title from them and the RTC under the guise of the G.O.Ms.No.289 dated 13.05.1988 cannot interfere with their settled possession and the order dismissing C.M.A. is liable to

be set aside and the Estate Officer who invoked Section 4 of the Act is to be directed to conduct an elaborate enquiry in deciding afresh including as whether the land in occupation of the revision petitioners is form part of the land claimed by the RTC under the said G.O.

Whereas it is the submission of the learned Standing Counsel for the RTC as revision respondents that the CMA order no way requires interference within the limited scope of revision by this Court while sitting in revision much less with the impugned order confirmed of the Estate Officer under Section 4 of the Act and sought for dismissal.

Heard and perused the material on record.

Undisputedly, the proceedings are commenced under Sections 4 & 5 of the Act in the year 2011. There were objections filed saying the premises covered by G.O. claiming title by RTC for that are different from the premises in the occupation of the revision petitioners sought for eviction in the final order under Section 4 of the Act by the Estate Officer of the RTC. The order no doubt speaks in cryptic without detailed discussion however of considered and perused the material on record and pursuant to the G.O., RTC is having title over the property and the revision petitioners are in occupation of part of it of 590 square feet and liable to be evicted being unauthorized occupants.

Coming to the impugned order of the lower appellate Court against said final orders of the Estate Officer, the lower appellate Court observed and discussed the civil lis pending inter se between

the parties also. In fact O.S.No.4171 of 2010 maintained by the RTC against the revision petitioners as defendants and the suit was after contest decreed on 23.02.2015. A perusal of said judgment and decree, which is placed on record in the revision shows that the revision petitioners also filed O.S.No.4247 of 2010 on the file of IV Junior Civil Judge, City Civil Court, Hyderabad, against the GHMC for the relief of permanent injunction and the same was ended in dismissal as can be seen from the judgment at Para 11 in answering issue No.2. The Civil Court in O.S.No.4171 of 2010 observed by neglecting said contest of the revision petitioners of the same not form part of the schedule property of Ac.4-05 guntas, which is part of 'A' schedule property shown as 'B' schedule property therein.

No doubt it is the submission of the revision petitioners the unsuccessful defendants against the decree and judgment dated 23.02.2015 in O.S.No.4171 of 2010 that appeal filed by them and same is pending. Having regard to the above, remedy is left open to them pending adjudication of that appeal, to seek stay of eviction of them pursuant to the final orders issued by the Estate Officer under Section 4/5 of the Act, that was confirmed by the impugned CMA judgment supra for nothing more to interfere.

Accordingly and with the above observations, the revision petition is disposed of by giving time of four (4) weeks from today to obtain any stay orders from the appellate Court against eviction meanwhile and meantime the existing *status quo* as on date is ordered to be maintained by both parties for four (4) weeks from today.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 15.11.2016
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