

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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C.R.P.No.1973 of 2016

ORDER:

On the ground that the defendant was not the owner of the property, the petitioner herein filed O.S.No.2209 of 2005 seeking permanent injunction restraining the defendant and his agents from interfering with his lawful and peaceful possession. O.S.No.2209 of 2005 was dismissed by the learned V Additional Junior Civil Judge, FAC VI Additional Junior Civil Judge, Visakhapatnam on 30.03.2009 holding that the defendant therein was the owner of the suit schedule property, and the petitioner-plaintiff was not entitled for grant of perpetual injunction against the owner of the suit schedule property. Thereafter proceedings in R.C.C.No.37 of 2009 on the file of the learned Rent Controller-cum-IV Additional Junior Civil Judge, Visakhapatnam were instituted by Smt. O.Satyavathi, W/o. O.Apparao (defendant in O.S.No.2209 of 2005) for eviction of the petitioner herein from the Suit Schedule property.

On R.C.C.No.37 of 2009 being allowed on 03.01.2013, and the petitioner herein being directed to vacate the suit schedule premises within one month, he invoked the jurisdiction of the learned Principal Senior Civil Judge-cum-Appellate Court of Rent Control Cases at Visakhapatnam in R.C.A.No.7 of 2013. The said appeal was dismissed, by order dated 19.02.2016, confirming the order of eviction dated 03.01.2013 passed by the Rent Controller-cum-IV Additional Junior Civil Judge, Visakhapatnam.

In its order in R.C.C.No.37 of 2009 dated 03.01.2013, the Rent Controller held that there was a jural relationship of tenant and landlord between the petitioner herein and the respondent, and denial of title by the petitioner herein was not *bona fide*. On the ground that the petitioner herein had willfully defaulted in payment of rent, the Rent Controller held him liable for eviction.

In the order under revision, the Appellate Court negated the petitioner's plea of absence of jural relationship, and came to the conclusion that the denial of title by the petitioner herein was not *bona fide*, and he had committed wilful default in payment of rents. Both the Courts below have concurrently held that there existed a jural relationship of

tenant and landlord; and the petitioner had willfully defaulted in payment of rent.

Even before this Court, the only contention urged by Sri R.Siva Sai Swaroop, learned counsel for the petitioner, is that since the learned VI Additional Junior Civil Judge, Visakhapatnam, in his order in O.S.No.2209 of 2005 dated 30.03.2009, had held that the defendant therein (husband of the respondent herein) was the owner of the property, there was no jural relationship of landlord and tenant between him and the respondent herein (wife of the defendant in O.S.No.2209 of 2005). It is evident from the aforesaid narration of events that, despite the suit filed by him being dismissed as early as on 30.03.2009, the petitioner continues to retain possession of the suit schedule property on one pretext or the other. I see no reason to interfere with the order under revision as concurrent findings of fact have been recorded by both the Courts below.

Sri R.Siva Sai Swaroop, learned counsel for the petitioner, would request that six months time be granted to enable the petitioner to voluntarily vacate the suit schedule property. Suffice it to make it clear that, in case the petitioner files a letter of undertaking before the Court below voluntarily and unconditionally undertaking to vacate the suit schedule property within four months from today, the Court below shall consider the said application in accordance with law.

Subject to the observations made hereinabove, the C.R.P. fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

22nd April 2016.
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Date: 22.04.2016

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