

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

CIVIL REVISION PETITION No.1723 of 2016

ORDER:

This Revision is filed challenging the order dt.18-02-2016 in I.A.No.13 of 2015 in O.S.No.262 of 2008 of the VI Additional District Judge (FTC), Narsapur.

2. The petitioners herein are defendants in the suit. The respondent/plaintiff filed the suit for declaration that he was the statutory tenant of the plaint schedule property, for permanent injunction and other reliefs.

3. The evidence of plaintiff was closed and the matter was coming up for petitioners' evidence and had undergone six adjournments. The petitioners did not lead evidence on the dates of these adjournments, but filed I.A.No.13 of 2015 under Order XV-A C.P.C. to direct the respondent to deposit into Court the alleged rents from 04-01-2008 @ Rs.350/- per month, which they claimed to be the admitted rent with interest.

4. This application was opposed by respondent contending that the said application is not maintainable and the petitioners should file a suit for recovery of the alleged rents and they cannot maintain this application.

5. By order dt.18-02-2016, I.A.No.13 of 2015 was

dismissed by the Court below. It observed that the petitioners ought to file a suit for recovery of rents allegedly due to them and they cannot take advantage of their own wrong of delaying the disposal of the suit by not leading evidence.

6. Challenging the same, this Revision is filed.

7. Heard Sri Rambabu Koppineedi, learned counsel for petitioners and Sri P.S.P. Suresh Kumar, learned counsel for respondent.

8. The learned counsel for petitioners sought to contend that the order passed by the Court below is erroneous.

9. I am of the opinion that an application under Order XV-A C.P.C. is maintainable only in a suit for recovery of possession, on the basis of termination of lease, or licence, where such lease or licence is admitted.

10. In the present case, the petitioners, who filed I.A.No.13 of 2015 under Order XV-A C.P.C. are not the plaintiffs but they are defendants and respondent has filed the suit to declare that he is the statutory tenant and for injunction. The suit is therefore not a suit for recovery of possession on the basis of termination of lease or licence.

11. I am of the opinion that I.A.No.13 of 2015 under Order XV-A C.P.C. itself is not maintainable in O.S.No.262 of 2008 for the aforesaid reasons. So, I am of the opinion that the

Court below has rightly dismissed I.A.No.13 of 2015.

12. Therefore, I do not find any merit in the Revision and it is accordingly dismissed. No costs.

13. As a sequel, miscellaneous petitions pending if any, in this Civil Revision Petition shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 10-06-2016

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