

HON'BLE SRI JUSTICE R. KANTHA RAO

Civil Revision Petition No.5800 of 2015

ORDER:

Heard Sri Dasari SVVSV Prasad, learned counsel appearing for the petitioner.

2. Having regard to the issue involved in the present civil revision petition, which is filed against the objections taken by the trial court about the maintainability of the suit before registering it, I am of the view that the notice to the opposite party is not required.

3. Earlier, before filing of the suit, the petitioner filed a writ petition i.e., WP No.10751 of 2011 apprehending forcible dispossession by Amalapuram Municipality. This court disposed of the said writ petition on 13.09.2011 holding that even if the possession of the petitioner is considered to be unauthorised, he cannot be dispossessed without affording him an opportunity to represent his case and directed the Municipality to consider the objections put-forth by the petitioner in regard to his continuance in the schedule mentioned property.

4. The prayer in the writ petition is very limited with regard to immediate threat of dispossession. The order in the above writ petition, in the considered view of this court, does not bar filing of a regular civil suit for permanent injunction. The trial court has fallen in to error in taking the objection about the maintainability of the suit. The petitioner can always maintain a suit for injunction against the Municipality having regard to the grounds stated in the plaint. The trial court is, therefore, directed to register the suit, if it is otherwise in order.

5. The civil revision petition is accordingly allowed. No order as to costs. Miscellaneous petitions, pending if any in this case, shall stand closed.

Date: 07.01.2016
BSS

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