

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Civil Revision Petition No.6140 of 2016

Date: 30.12.2016

Between:

Adatravu Naganna

.. Petitioner

and

Palaparthi Lakshmi and another

.. Respondents

Counsel for the Petitioner :

Mr.Kambampati Ramesh Babu

The Court made the following:



Order :

This Civil Revision Petition arises out of Order, dated 24.11.2016, in EP No.47 of 2015 in RCC.No.1 of 2008 on the file of the Principal Junior Civil Judge, Chodavaram.

I have heard Mr.Kambampati Ramesh Babu, learned Counsel for the petitioner, and perused the record.

The petitioner, who is the tenant of the respondents, suffered an eviction order in RCC.No.1 of 2008 on 25-09-2012. The petitioner has filed RCA.No.1 of 2012 on the file of the Principal Senior Civil Judge, Chodavaram. Along with the said appeal, he has filed IA.No.175 of 2016 for stay of eviction order wherein a counter-affidavit was filed by the respondent and the said Application is stated to be pending. Meanwhile, the respondent has filed EP.No.47 of 2015 for execution of the eviction order.

A perusal of the docket proceedings filed by the petitioner shows that the EP underwent several adjournments commencing from 06-10-2015. By Order, 24-11-2016, the learned Rent Controller has issued the warrant under Order XXI Rule 35 of the Code of Civil Procedure, 1908 (CPC) and directed the case to be posted to 24-12-2016.

The afore-mentioned facts would reveal that though the petitioner suffered the decree for eviction in the year 2012 itself and an appeal was filed immediately thereafter, for the reasons best known to him, he did not file any application for stay of eviction order till the year 2016. In the absence of stay of eviction order, the respondent is entitled to seek execution of the same and therefore, the lower Court cannot be found fault with for issuing the delivery warrant. The petitioner cannot be allowed to take advantage of his own default in seeking stay at appropriate time and resist the application for delivery of warrant only on the ground that stay application filed in the year 2016 is pending.

For the afore-mentioned reasons, I do not find any merit in the Civil Revision Petition and the same is, accordingly, dismissed, however, with the observation that, in the event the petitioner succeeds in the appeal, he may seek appropriate relief for restoration of his possession.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.8045 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 30th December, 2016
lur

