

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CIVIL REVISION PETITION No.4312 of 2016

ORDER:

The civil revision petition is filed by the petitioners/respondents under Article 227 of the Constitution of India aggrieved by the docket order, dated 08.08.2016, in I.A.No.707 of 2016 in O.S.No.120 of 2016, passed by the X Additional District Judge, at Rajahmundry, East Godavari District.

2. Heard and perused the material available on record.

3. The X Additional District Judge, at Rajahmundry, East Godavari District, vide order, dated 08.08.2016, in I.A.No.707 of 2016 in O.S.No.120 of 2016, passed the following order:

“In the result, I.A. No. 707 of 2016 is allowed in favour of the petitioner and against the respondent Nos. 1 and 2 ordering for attachment of the petition schedule properties, if the respondent Nos. 1 and 2 failed to furnish security within 24 hours to the amount of Rs.40,00,932/- (Rupees Forty Lacs and Nine hundred and thirty two only) and Rs. 1,21,728/- (Rupees One Lac Twentyone Thousand Seven hundred Twentyeight only) towards approximate advocate's fee and Rs.44,952 (Rupees Fortyfour Thousand Nine hundred and fifty two only) towards Court fee and in total for a sum of Rs.41,67,612/-. Issue conditional attachment Order by 19.08.2016. I.A.No.852 of 2016 is dismissed. The petitioner is at liberty, if advised to make necessary application, if necessary, for seeking the reliefs in that application or any other reliefs, in the event of the respondent failing to furnish security or make any obstruction for attachment of the properties as per this common order in I.A. No.707 of 2016.”

4. It is the case of the respondent/plaintiff that the main suit was filed by him for eviction of the defendants, for recovery of arrears of rent and other reliefs. The petitioners/defendants

committed default in payment of rent from the very initial time of the lease and became a chronic defaulter. Despite of his legal notice, dated 23.03.2016, the petitioners/defendants did not pay the arrears of rent and failed to comply with the other obligations to be fulfilled, as demanded in the legal notice in terms of the registered lease deed. The petitioners/defendants are in illegal occupation of the plaint schedule property since their lease was terminated under the notice by end of April, 2016.

5. Learned counsel for the petitioners/defendants submits that the relief in the main suit was for eviction and that the very relief would be contrary to the relief claimed in I.A., which would render the orders a nullity and that on one hand, the respondent/plaintiff seeks for eviction of the petitioners/defendants from the subject property on the ground that the petitioners/defendants are not vacating and on the other hand, pleads that the property to be attached in the very same property. The learned counsel prays to allow the revision and set aside the impugned orders.

6. Taking into consideration the facts and circumstances of the case and the submissions of the learned counsel for the petitioners, the Civil Revision Petition is disposed of with the following direction:

The petitioners/defendants are permitted to vacate the subject premises on or before 30.12.2016, subject to a condition that the petitioners/defendants should furnish a Bank Guarantee for a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) to the satisfaction of the concerned Court on or before 25.10.2016. The claim and counter claim will be decided in the suit pending before the trial Court.

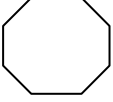
7. Accordingly, the Civil Revision Petition is disposed of. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in the civil revision petition shall stand closed.

RAJA ELANGO, J

Date: 28th September, 2016

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