

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Civil Revision Petition No.5984 OF 2016

ORDER:

Impugning the order of the lower Court dated 23.09.2016 in I.A.No.557 of 2015, which is the application to review the order in I.A.No.407 of 2015 in I.A.No.178 of 2015 in O.S.No.263 of 2015, which suit is filed by the sole plaintiff Vinay Gupta against three defendants including 2nd defendant-K.Sobharani and of whom the petitioners in I.A.No.557 of 2015 are defendants 1 and 3 by names Raghu and Yashodhara. The suit filed by the tenant of 3rd defendant-landlady against the defendants 1 to 3 not to forcibly dispossess him. On the plaintiff's application temporary injunction was granted in I.A.No.178 of 2015 and it is by alleged violation of the served order of temporary injunction 'hukum', locks were said to have been put up by the landlady to prevent the tenant to enter and enjoy the property application in I.A.No.407 of 2015 filed to remove the lock. The only question involved therein was as to who put the lock. The order granted by the Court in I.A.No.407 of 2015 dated 28.12.2015 in I.A.No.178 of 2015, was with a direction to the landlady to unlock. The observations in the order are that from the lock still in existence for rival dispute as to who put the lock, the suit for injunction is pending and exparte ad-interim injunction is in force, apart from Rent Control Case is also pending, pending disposal of the same, to permit the tenant to be in enjoyment of the suit premises practically not in dispute on the order permitting enjoyment to the above extent. What is impugned in I.A.No.557 of 2015 against the order in I.A.No.407 of 2015 is the direction to landlady to remove the lock from the observations of therefore "*without embarking on deciding the question as to who put the lock, I am inclined to direct the*

respondent to remove the lock". This part of directing the respondent to remove the lock made an issue covered by the impugned order in I.A.No.557 of 2015 resulted in allowing that application setting aside the order in I.A.No.407 of 2015 referred supra which is the subject matter of present revision.

2. No doubt, lower Court having held that without embarking on deciding the question of who put the lock, the lock to be cause removed, instead of directing the landlady to remove the lock, should have been directed the Court Amin to cause remove the lock. The lower Court instead of clarifying the order in I.A.No.407 of 2015 from the grievance of the landlady that when she did not allegedly put the lock, had she been directed to comply the impugned order of cause open the lock, she could be liable for further prosecution for her at the old age of 70 years above, for alleged violation of injunction order in I.A.No.178 of 2015. I.A.No.409 of 2015 and another application in I.A.No.408 of 2015 are pending for injunction order violation and police aid. Having heard the main purpose is to see that the lock is to be removed to put the tenant in possession without unnecessary delay, to subserve the ends of justice for not mainly to prosecute the aged woman but for at least to get police protection to implement the injunction order, this Court from the hearing of both sides chosen to direct the lower Court to close the application I.A.No.409 of 2015 to consider the I.A.No.408 of 2015 for police aid necessity if any; which is without prejudice to claim any concession by tenant in payment of rent for the period of the premises under lock, if at all establish the fault is that of the landlady.

3. Accordingly, the revision is disposed of while modifying the order in I.A.No.557 of 2015 only to the extent of deleting the direction to the landlady to open the lock in the order in I.A.No.407 of 2015 by

substituting in its place by directing Court Amin to cause open the lock and put the tenant in possession consequently the lower Court by virtue of this order is directed to close the application in I.A.No.409 of 2015 and pass orders in I.A.No.408 of 2015 and immediately depute the Court Amin without any unreasonable delay to cause release the lock to enable the tenant to enjoy the premises pursuant to the order in I.A.No.407 of 2015. Needless to say the lower Court pursuant to the exparte ad-interim injunction in force decide the application in I.A.No.178 of 2015 on merits expeditiously. Pending miscellaneous petitions if any, in this revision shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:02.01.2017

Note: Copy by two days.
b/ o.
Vvr

