

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

CIVIL REVISION PETITION No.406 OF 2006

DATED : 28.12.2017

Between :

Bathina Dharmayya S/o.Not known (died per L.Rs,3 to 5)
Aged 57 yrs, Cultivation,
Pavara & others.

.. Petitioners

And

Narava Sanyasi (died),

N.Nageswararao S/o.Sanyasi, (died per L.Rs.3 to 6),
Aged 45 yrs, Business, Kakinada & others.

.. Respondents



This court made the following :

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ORDER :

Heard learned counsel for the petitioners. None appeared for the respondents.

2. The facts on record would disclose that respondents/D.Hrs instituted O.S.No.659 of 1989 to grant injunction against interference by the petitioners/J.Drs. The trial Court dismissed the suit. Aggrieved thereby, A.S.No.132 of 1997 was filed on the file of IV Additional District Judge, Kakinada. The first appellate Court allowed the appeal and granted decree as prayed in the suit. S.A.No.275 of 1999 arising out of A.S.No.132 of 1997 was dismissed by this Court by judgment dated 28.06.2004. Thus, the decree granted by the first appellate Court has become final. Alleging disobedience of the decree granted in their favour, the respondents/D.Hrs filed E.P.No.74 of 2009. Petitioners/J.Drs herein contested the E.P. Petitioners contended that they are the tenants of the suit schedule property and they are in occupation and enjoyment. Therefore, the question of interference by them does not arise as they were already put in possession by the respondents.

3. The respondents contended that petitioners were never put in possession. They were only asked to provide water to the agricultural lands and they were never inducted as tenants. In fact petitioners earlier filed ATC.No.91 of 1989 alleging that their tenancy is to be terminated and that illegally the lands on which Tenancy was granted to them was sold to third party and that sale agreement should be nullified and that they should be offered to

purchase the land. The Special Officer-cum-Principal District Munsif, Kakinada, dismissed the case. Aggrieved thereby ATA.No.10 of 1998 was preferred. The appellate Court also confirmed the decision of the Special Officer. Aggrieved thereby C.R.P.No.3213 of 2003 was filed. By order dated 27.12.2017 the said CRP is dismissed. Petitioners also filed ATC No.53 of 1990 praying to grant remission of rent to be paid for the agricultural year 1980-81 on the ground that due to natural calamities, they could not cultivate the land. The said ATC was dismissed. The same was affirmed in ATA.No.11 of 1998. C.R.P.No.3281 of 2003 preferred against the said decision was also dismissed by this Court by order dated 27.12.2017. Thus, the claim of the petitioners that they are in possession as tenants and in enjoyment of the property, stood rejected in the above case.

4. According to the respondents even though decree is granted in their favour, the petitioners are interfering with their possession and enjoyment.

5. Having regard to the background of the case, the Court below observed that petitioners are not entitled to be in possession and enjoyment and were never in possession. The very fact of their claim that they are in possession and enjoyment would justify the contention of the decree holders that there is illegal encroachment and dispossession in violation of the decree granted. The Court further observed that no proof was filed before the Court to show that the judgment debtors obeyed the orders of first appellate Court as affirmed by the High Court.

6. In view of the same, the Court below held that the petitioners are liable to be punished under Order 21 Rule 32 of Code of Civil Procedure (C.P.C) and ordered further steps to be taken under Order 21 Rule 32 of C.P.C.

7. Having regard to the facts noted above, I do not see any error in the view taken by the Court below warranting interference by this Court and Revision is liable to be dismissed.

8. Accordingly, the Civil Revision Petition is dismissed. The Court below is directed to take further steps from the stage of Order 21 Rule 32 of C.P.C., in the event petitioners continue to violate the decree passed in A.S.No.132 of 1997. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Revision shall stand closed.

28th December, 2017
Rds

P.NAVEEN RAO,J

