

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.6417 of 2016

ORDER:

Impugning the dismissal order of the lower Court dated 21.12.2016 in I.A.No.30 of 2016 in pending suit O.S.No.2326 of 2010 passed by the IV Additional Rent Controller-cum-XVI Additional Junior Civil Judge, City Civil Court, Hyderabad, on the application of the 1st defendant, in the suit for bare injunction maintained by the respondent/plaintiff, filed under Order VII Rule 11 CPC, though not referred to it pertains to clause (b) alleged non-existence of cause of action in maintaining a suit in seeking to reject, by holding that there is subsistence of cause of action and there are grounds to reject the plaint which is part heard matter where after closure of the evidence of the plaintiffs and also of DW.1 while coming for further evidence of the defendants, the revision is maintained.

The several contentions raised in the grounds of revision are untenable and have no basis. A reading of the plaint particularly cause of action Para and internal Para 8 clearly discloses cause of action to maintain the suit for bare injunction. It shows a right of the plaintiff and the threatened interference by the defendants to sustain. Then there are no grounds to reject the plaint that was the conclusion. There is no basis to say the lower Court did not given fair opportunity. The contention that after counter affidavit by the plaintiff to the application, the defendant sought for filing reply and opportunity not given is not a basis as there is no statutory right to claim to file any reply to the counter that too in the interlocutory application.

Having regard to the above there are no grounds to interfere with the impugned order but for from the plaint on the self-same day the defendants' further evidence also closed by the trial Court after hearing both sides, this Court directs the trial Court to permit any further evidence of the defendants to complete by 31.01.2017 and proceed to hear arguments if the defendant failed to adduce any evidence before 31.01.2017, the trial Court order holds good closing the evidence to hear arguments and pass judgment on merits.

Accordingly and in the result, the revision petition is disposed of.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

Date: 06.01.2017
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JUSTICE Dr. B.SIVA SANKARA RAO

