

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

Civil Revision Petition No.1247 of 2017

Date: 17.03.2017

Between:

M/s.Taj Mobile House
rep. by its Proprietrix
Mrs.Noor-E-Tabassum

.. Petitioner

and

Smt.Tangudu Pushpa

.. Respondent

Counsel for the Petitioner :

Dr.Venkat Reddy Donthi Reddy

The Court made the following:



Order :

This Civil Revision Petition is filed against docket order, dated 06-01-2017, whereby the II Additional Senior Civil Judge, Visakhapatnam, has rejected IA.Gr.No.1 of 2017 filed by the petitioner under Order VII Rule 11 of the Code of Civil Procedure, 1908 (CPC) for rejection of the plaint in OS.No.16 of 2014.

I have heard Dr.Venkat Reddy Donthi Reddy, learned Counsel for the petitioner, and perused the record.

The respondent has filed the afore-mentioned suit for eviction of the petitioner, who is, admittedly, a tenant of the premises purchased by him. The petitioner has filed OS.No.904 of 2012 for an injunction restraining the respondent from dispossessing it except under due process of law. The said suit was decreed and an injunction was granted as prayed for. Subsequently, the respondent has filed OS.No.16 of 2014 for eviction of the petitioner. In its application filed for rejection of the plaint, the petitioner has stated that since it has obtained decree for injunction, the respondent is barred from filing a fresh suit, that too, without proper cause of action. This plea was rejected by the Court below and in my view rightly.

As correctly observed by the lower Court, the respondent has filed OS.No.16 of 2014 in consonance with the decree in OS.No.904 of 2012. It is not the pleaded case of the respondent that a decree for injunction in absolute terms was granted. On the contrary, the admitted fact is that the injunction against the petitioner's eviction will operate only till such time as it is not evicted by the due process of law. In order to adhere to the due process of law, the respondent has filed the present suit in OS.No.16 of 2014.

As regards the submission of the learned Counsel for the petitioner that no cause of action arose to the respondent, the same can be referred only to be rejected. In Para 4 of the plaint, the respondent has enumerated in detail various facts, which constitute cause of action. Even after reading the averments on this face value, the plea of the petitioner that the respondent had no cause action to file a suit is liable to be rejected as wholly misconceived.

For the aforementioned reasons, I do not find any jurisdictional error in the order of the lower Court. Hence, the Civil Revision Petition is dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.1665 of 2017, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 17th March, 2017
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