

HON'BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.5854 of 2011

ORDER:

The revision petitioner is the 1st respondent in ATC.No.4 of 2008. The revision 1st respondent is the petitioner in ATC supra and revision 2nd respondent is the 2nd respondent therein.

The tenancy application filed by the revision 1st respondent herein by name N.Siva Ramakrishna for declaration of tenancy with a claim of consequential injunction and got a preferential right of purchase saying there is oral lease entered in 1998 and he has been paying rent to the revision petitioner herein, the landlady (ATC 1st respondent) and he is a statutory tenant under Andhra Pradesh (Andhra Area) Tenancy Act, 1956 amended in 1980 and the 1st respondent is proposing to alienate the property to the 2nd respondent which he came to know and filed I.A.No.1746 of 2005 for impleading the 2nd respondent and accordingly, he was impleaded.

The counter filed in opposing the same denying any such agreement.

During trial Exs.P1 to P4, the postal receipt with acknowledgments marked in the oral evidence of tenant-PW.1 and the 1st respondent-landlady was examined as RW.1 orally. The Tenancy Tribunal dismissed the application saying the petitioner failed to establish that he is a statutory tenant over the plaint schedule property, thereby not entitled to the relief and injunction with consequential purchase and mere oral assertion of tenant is not sufficient as held in **Imandi Anasuya Vs.**

Bandaru Satyanarayana and Others¹. It is against which when unsuccessful tenant maintained ATA.No.24 of 2009, the learned District Judge/appellate Tribunal allowed the appeal setting aside the dismissal order holding the tenant petitioner as statutory tenant entitled to the protection of the Act by judgment dated 09.08.2011, more particularly, with the observations that in the chief examination affidavit of RW.1, 1st respondent-landlady, she has admitted categorically the schedule property was given on lease to the petitioner in 2002-03 and that admission is sufficient to say he is statutorily entitled under oral lease. Against which, the present revision is maintained.

Heard both sides and perused the material on record.

Once it is categorical assertion even in the very chief examination of the 1st respondent/landlady, in her evidence that the petitioner is the tenant under oral lease, nothing more is required as rightly concluded by the lower appellate Court. The tenancy applicant is the tenant under the 1st respondent and it is thereby the appellate Court categorically observed that if at all there is a proposal to sell the land by the 1st respondent to the tenancy application 2nd respondent, the injunction operates not to sell from the preferential right the petitioner got as per the provisions of the Act.

Having regard to the above, there is nothing to interfere with the said appellate Court order by sitting in revision against it.

Accordingly and in the result, the Civil Revision Petition is dismissed.

¹ 2008 1 ALT 211

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

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 29.11.2017
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