THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.727 OF 2017

O R D E R:

This revision has been filed by petitioner challenging the order and decree dated 05.01.2017 passed in I.A.No.482 of 2016 in O.S.No.260 of 2015 on the file of II Additional Senior Civil Judge (FTC), Guntur.

2. The present petition has been filed on the ground that learned judge erred in refusing to exercise jurisdiction vested in him by law; he ought to have allowed the I.A. to substantiate the claim of the petitioner so as to disprove the allegations of the respondent with regard to his claim of abnormal house tax. Consequently, the learned Court below should have summoned the witnesses along with the documents which would not have caused any prejudice to the respondent.

3. I.A.No.482 of 2016 has been filed by the petitioner thereto, the respondent filed his counter affidavit, whereby stated that in a suit for eviction, where the respondent has to prove the ground enabling him to seek eviction of the petitioner from the schedule premises, for which, he has adduced sufficient evidence. Consequently, the petitioner has to produce evidence to show that the claim of the respondent is false, for which, examining the Revenue Officer, Guntur Municipal Corporation is unrelated, what the petitioner intends to prove by establishing the quantum of tax paid by the respondent for the building is not known. When it is the burden of respondent to pay tax for the building, in

what way the petitioner, who is just a tenant in the building is concerned. Hence, examining the Revenue Officers in a eviction suit, is not only unconnected to the matter, but also unwarranted, and the record itself discloses that the petitioner in spite of availing much opportunities to adduce evidence, but has failed to adduce evidence, because of which, the evidence on behalf of the petitioner was closed by the Court below. However, at the stage of arguments, the petitioner has filed the aforesaid application.

4. The petitioner stated in the said application that it is evident from his evidence that he is paying Rs.3.5 lakhs per annum towards house tax for the schedule building, but in fact as per the municipal records, the respondent has paid only Rs.87,480/- for the period i.e., 2011-2012, but falsely stated before the Court below as if the petitioner is paying huge amount of Rs.3 lakhs. Hence, to falsify his contention, the petitioner moved an application to examine the Revenue Officer, Guntur Municipal Corporation (GMC).

5. The learned Court below opined that when the scope of the suit on hand is limited to the extent of considering whether the respondent could establish his case as to why he seeking eviction of the petitioner from the schedule premises, and what is the evidence lead by the petitioner to disprove the case of the respondent. According to the defence put forth by the petitioner in his written statement, he has to lead evidence to prove that subsequent to 30.05.2014, the lease was renewed entitling him to continue in the schedule premises as tenant, for which, there is no

relevancy to examine Revenue Officer, GMC, to speak about quantum of tax paid by the respondent.

6. On a perusal of the order and after hearing the learned counsel for the petitioner, it seems, after the evidence is over and the argument has advanced, the petitioner just to delay the proceedings has filed the aforesaid application, which was rightly dismissed by the trial Court.

7. In view of the above discussion, I find no perversity or illegality in the impugned order and decree dated 05.01.2017 passed in I.A No.482 of 2016 in O.S No.260 of 2015 by the II Additional Senior civil Judge (FTC), Guntur.

8. Finding no merit in the instant petition and the same is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE SURESH KUMAR KAIT.

Date: 17-02 -2017
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