

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P. No.615 OF 2017

ORDER:

The plaintiff in O.S. No.854 of 2015 in the Court of II Additional Junior Civil Judge, Kurnool is the revision petitioner.

The revision petitioner filed the instant suit for perpetual injunction restraining the respondents from interfering with the possession and enjoyment of petitioner over the plaint schedule property. The revision petitioner pending suit, filed I. A. No.1210 of 2015 for grant of temporary injunction. The trial Court through order dated 03.06.2016 dismissed the application. The revision petitioner filed C.M.A. No.5 of 2016 and the C.M.A. has been allowed with the following condition:

"In the result, the civil miscellaneous appeal is allowed, without costs, setting aside the order and decretal order dated 3-6-2016 in I.A. No.1210/ 2015 in O.S. No.854/2015 on the file of the II Additional Junior Civil Judge's Court, Kurnool, subject to condition that the appellant/petitioner shall pay rent at the rate of Rs.8,000/- per month from 2-1-2016 to 2-11-2016, within two months from the date of this order and future rents also till the disposal of the suit, otherwise the miscellaneous appeal shall stand dismissed. Accordingly, temporary injunction is granted in favour of the appellant/petitioner, pending disposal of the suit, subject to the above condition."

The plaintiff aggrieved by the condition imposed while granting temporary injunction, has filed the instant revision.

Mr.Mithileshwara Reddy for petitioner contends that the appellate court while directing the petitioner to deposit Rs.8,000/- towards rent from 02.01.2016 to 02.11.2016 and continue to deposit Rs.8,000/-, ignored the admitted fact in the written statement about Rs.9,00,000/- received by respondents from petitioner, and if

interest on the said amount is taken note of, the direction to pay rent would amount to additional liability on the petitioner and double advantage to the respondents.

Mr.C.S.K.V.Ramana Murthy contends that the suit is one for injunction simplicitor. These circumstances relate to alleged agreement of sale or the amount said to have been paid by petitioner in favour of respondents is not one of the issues in the instant suit. He further contends that the appellate Court while imposing the condition has given liberty to petitioner herein to take steps for realisation of the amount and therefore, no exception to the findings recorded by the appellate Court in the jurisdiction of this Court under Article 227 of the Constitution of India is made out.

I have, with the assistance of learned counsel appearing for the parties perused the order in revision and also the direction issued by the appellate Court. The scope of revision is very limited as well as jurisdiction of this Court to re-examine the condition. This Court does not find a reason to disturb the findings recorded by the appellate Court on all material aspects. The revision fails and accordingly dismissed. The Court of II Additional Junior Civil Judge, Kumool is directed to dispose of the suit within three months from the date of receipt of a copy of this order. Both the parties are directed to cooperate with the Court for quick disposal. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT,J

Date:09.03.2017
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