

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION No.2879 OF 2018

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The prayer of the petitioners reads as under:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue an appropriate Writ, Order or direction more particularly Writ of Mandamus, declaring the action of the 2nd respondent in issuing proceedings vide No.C2/2969/2017 dt.18-12-2017, as illegal, arbitrary, violative of Articles 14, 21, 300-A of the Constitution of India and consequently set aside the proceedings vide No.C2/2969/2017 dt.18-12-2017 issued by the 2nd respondent and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

The petitioners claim to be tenants in possession of the secured asset in relation to which the State Bank of India, the first respondent herein, has initiated recovery proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and is now at the stage of securing possession thereof.

Though the petitioners referred to the law laid down by the Supreme Court in Vishal N. Kalsaria v. Bank of India¹, they failed to produce any document in proof of their claimed status of tenants in possession of the secured asset. No lease deed is placed on record and when asked, Smt.P.Padmavathi, learned counsel for the petitioners, would state that they claim tenancy rights under an oral lease. Further, when asked as to what is the rental being paid by each of the petitioners, learned counsel confessed that no information is available. She also admitted that no rental receipts were filed in proof of payment of rentals by the petitioners.

¹ (2016) 3 SCC 762

Sri Maruthi Jadhav, learned counsel representing Sri B.S.Prasad, learned counsel for the State Bank of India, the first respondent, would inform this Court that the Securitisation Application filed by the borrower before the jurisdictional Debts Recovery Tribunal was already disposed of and this writ petition is only a ploy adopted to protract the proceedings by putting up the petitioners in the capacity of tenants in occupation of the secured asset.

Given the aforestated circumstances, we find that there is not a scrap of evidence available to support the claim of the petitioners that they are tenants in occupation and possession of the secured asset. Even if it is accepted that they claim tenancy rights under an oral lease, their failure to mention the quantum of rent paid by each of them and to produce the rental receipts, if any, clearly speaks against them.

Though Smt.P.Padmavathi, learned counsel, would contend that the petitioners' only endeavour is to seek, at least, three weeks time for vacating the premises, we are of the opinion that when no proof is produced in support of the tenancy rights claimed by the petitioners, such relief cannot be extended to them.

The writ petition is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR,J

P. KESHA RAO,J

Date: 31.01.2018
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