

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

Civil Revision Petition No.3709 of 2018

Date: 27.11.2018

Between:

Smt.Balaga Ramanamma

.. Petitioner

and

Saripalli Appa Rao

.. Respondent

Counsel for the Petitioner :

**Mr.Koppula Gopal
for Sri P.Durga Prasad**

The Court made the following:



Order:

This Civil Revision Petition (CRP) is filed against Order, dated 05-03-2018, in IA.No.430 of 2017 in OS.No.236 of 2014 on the file of the V Additional Junior Civil Judge, Visakhapatnam.

The respondent filed the aforementioned suit for recovery of possession and removal of the unauthorized structures over the plaint schedule property. The petitioner has filed IA.No.430 of 2017 under Order VII Rule 11 CPC for rejection of plaint on the ground that the respondent has suppressed the fact of passing of Lok Adalat Award, based on the consent of both parties in OS.No.1199 of 2010 filed by the respondent for Permanent Injunction restraining the petitioner from interfering with his peaceful possession of the suit schedule property. The Court below dismissed the said IA by observing that, on perusal of the plaint and the documents filed along with it, it is satisfied that the earlier suit, filed for injunction between the same parties, does bar the present suit for recovery of possession between them parties.

The learned Counsel for the petitioner submitted that the present suit is barred under Order VII Rule 11 (d) CPC as the consent award operates as *res judicata*. Though the Court below has not specifically examined this aspect, I am of the opinion that whether the consent award in a suit filed for permanent injunction operates as *res judicata* and thereby, whether the present suit is barred by law needs to be adjudicated in the suit after full-fledged trial. Therefore, the plea raised

by the petitioner cannot constitute a ground for rejection of plaint under Order VII Rule 11 CPC.

For the aforementioned reasons, the CRP is dismissed with the direction that the view expressed by the lower Court on the effect of the Lok Adalat Award on the maintainability of the present suit shall not influence it while deciding the suit.

As a sequel to dismissal of the CRP, IA.No.1 of 2018, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 28th November, 2018
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