

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.3617 of 2018

20.07.2018

Between:

Jalagadugula Jagadeswar Rao

..Petitioner

and

Smt.Boyina Jayalakshmi and others

..Respondents

Counsel for the petitioner: Mr.M.Janardhan Rao

Counsel for the respondents: --

The Court made the following:



ORDER:

Feeling aggrieved by order, dated 06.06.2018, in E.A.No.223 of 2014 in E.P.No.48 of 2014 in R.C.C.No.20 of 2010 on the file of the Rent Controller-cum-IV Additional Junior Civil Judge, Visakhapatnam, the applicant in the said E.A., who is a third party to the E.P. and R.C.C. filed this revision.

2. Respondent Nos.2 to 5 claiming to be the successors-in-interest of late K.Appa Rao executed a sale deed in favour of respondent No.1 conveying the petition schedule property and later, they continued as the tenants of respondent No.1. As respondent Nos.2 to 5 refused to vacate the premises, respondent No.1 filed R.C.C.No.20 of 2010, which was allowed by the Rent Controller. The said order having become final, respondent No.1 filed E.P.No.48 of 2014 for execution of the order in the R.C.C. At that stage, the petitioner filed E.A.No.223 of 2014 under Rule 23(7) of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Rules, 1961, resisting the delivery and claiming title over the property based on a Will said to have been executed by the mother of late K.Appa Rao, who is none other than the grandmother of the petitioner. The Rent Controller held a summary enquiry into

the genuineness or otherwise of the Will and rendered a finding of fact that the petitioner failed to discharge the onus lay on him to prove the Will by clearing various suspicious circumstances to the satisfaction of the Court and that therefore, the Will cannot be accepted as genuine.

3. Having considered the reasons assigned by the Rent Controller, I am not inclined to interfere with his findings in exercise of this Court's revisional jurisdiction under Section 115 C.P.C.

4. The Civil Revision Petition is, accordingly, dismissed, however, with liberty to the petitioner to file a comprehensive suit for declaration of title based on the Will, if so advised and in such event, the findings rendered by the execution Court would not come in the way of the competent Court in independently adjudicating the suit based on the evidence that may be adduced by the respective parties.

5. As a sequel to dismissal of the Civil Revision Petition, I.A.No.1 of 2018 filed by the petitioner for interim relief stands dismissed as infructuous.

20th July, 2018
GHN

C.V.NAGARJUNA REDDY, J

