

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

CIVIL REVISION PETITION No.6657 of 2018

15.11.2018

Between:

Nagam Kamala Dutt and another

..Petitioners

and

Nagam Venkata Mangapathi Rao

..Respondent

Counsel for the petitioners: Mr.G.Tuhin Kumar

Counsel for the respondent: --

The Court made the following:



ORDER:

This Civil Revision Petition is nothing but an abuse of process of the Court. Admittedly, the petitioners suffered a decree for eviction in R.C.C.No.25 of 2015 and R.C.A.No.3 of 2017 filed by them was rejected for non-prosecution on account of their failure to deposit the arrears of the rents. The only ground that was raised by the petitioners in the unnumbered E.A. in the execution petition is that the respondent is not the owner of the property and whereas Sri Varaha Lakshmi Narasimha Swamy Devastanam is the owner. Admittedly, this issue was raised in R.C.C.No.25 of 2015. Even in the absence of any finding on the said aspect, the order of eviction operates as *res judicata*, which applies to execution proceedings also as per explanation VII to Section 11 C.P.C. The petitioners cannot, therefore, be permitted to once again raise the same issue in the execution proceedings.

2. Mr.G.Tuhin Kumar, learned counsel for the petitioners, has submitted that the decree for eviction is not executable as the respondent is not the landlord.

I am afraid, I cannot accept this submission. Whether the respondent is the landlord or not, the fact remains that the order of eviction was passed. When the possession of the property is capable of being delivered to the respondent and in the absence of the purported real owner not raising an objection, the petitioners, who suffered decree for eviction, cannot be permitted to resist execution by taking shelter under the plea that the respondent is the owner of the property.

3. For the aforementioned reasons, we do not find any merit in this Civil Revision Petition and the same is, accordingly, dismissed.

4. As a sequel to dismissal of the C.R.P., I.A.No.1 of 2018 filed by the petitioners for interim relief stands dismissed as infructuous.

15th November, 2018

GHN

C.V.NAGARJUNA REDDY, J