

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.30 of 2015

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JUDGMENT:

This appeal is preferred against orders dated 24.11.2014 in O.A.No.2862 of 2010 (old O.A.No.4 of 2009) on the file of A.P. Endowments Tribunal at Hyderabad. _

2. Appellant herein is Hindustan Petroleum Corporation Limited, Vidhyadharapuram, Vijayawada, who is running out let for sale of petrol and diesel. According to appellant, the suit property was taken on lease in the year 1959 from the original owner on a monthly rent of Rs.45/- for a period of 20 years with a provision for extension of lease for a further period of 20 years originally by Caltex Inida Limited which was amalgamated with appellant and continuing same business. According to appellant, respondent herein has no title of the schedule property and appellant is not an encroacher therefore legal course is only under the provisions of Transfer of Property Act. The tribunal examined PW.1 on behalf of respondent herein and examined RW.1 on behalf of appellant herein and marked Exs.P1 to P7 on behalf of respondent herein and Exs.R1 to R5 on behalf of appellant herein, disbelieved the version of appellant and ordered eviction by granting one month time. Aggrieved by which, present appeal is preferred.

3. Advocate for appellant contended that except affidavit, there is no other document to prove that the property was given to respondent herein and according to appellant the original owner extended the lease after 1979 for a further period of 20 years and

the respondent has no right to call the appellant as encroacher.

4. But as seen from the material, objection of appellant is not tenable because one witness by name P.Mohan Rao is examined on behalf of respondent herein and 7 documents are marked. Ex.P1 is the Gift deed executed by the original owner of the property in favour of TTD and Ex.P2 is the receipt for delivery of possession of the same property.

5. Further, as seen from the material, the gift was duly accepted by TTD, and thereafter, legal notice was issued to appellant, for which, there was no reply from appellant. From documents Exs.P3 and P7, it is very clear that family members of SAMA delivered this property to TTD through a delivery receipt in pursuance of the gift deed executed by the family members. By considering these documents, tribunal disbelieved the version of appellant ordered eviction of appellant herein. Now the very same objection is urged for admission of the appeal. In the grounds it is urged that respondent has not filed any documents to show that it has got title over the schedule property. It is the main ground for preferring appeal. But the same is apparently incorrect on a bare perusal of appendix of evidence. Valid and legal documents are marked in the evidence proving title. Therefore, there are no valid grounds to register the appeal, particularly, when the objection of appellant is contrary to the documentary evidence that is produced on behalf of respondent institution. Further, the only objection raised during the course of arguments is that except the affidavit, there is no other document, which is not correct.

6. For these reasons, I am of the view that there are absolutely no grounds to entertain appeal, therefore, this Civil Miscellaneous Appeal is dismissed at admission stage. No costs.

Miscellaneous Petitions, if any pending, in this Appeal, shall stand closed.

S. RAVI KUMAR, J

Date: 29-01-2015.

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