

Rewaram Vs. Veerendra Kumar and Others

Rewaram Vs. Veerendra Kumar and Others

SooperKanoon Citation : sooperkanoon.com/1182579

Court : Madhya Pradesh

Decided On : May-06-2014

Judge : Rohit Arya

Appeal No. : Second Appeal No. 560 of 2004

Appellant : Rewaram

Respondent : Veerendra Kumar and Others

Judgement :

1. This appeal under Section 100 of C.P.C. by the objector/judgment-debtor/tenant is directed against the concurring judgment and decree dated 16-7-2004 passed in Civil Appeal No. 7/2004 by First Additional District Judge, Vidisha, District Vidisha affirming the order dated 13-5-2004 in Execution Case No. 133-A/89/01 by Civil Judge, Class I, Vidisha whereby the appeal has been dismissed.

2. The facts in detail need not be delved deep into as the matter at issue relates to eviction of suit premises by the tenant/judgment-debtor after the order passed by Hon'ble Supreme Court.

3. Instant case is, a rare case and it has set a classic example of misuse of process of law at the behest of chronic litigant/tenant dragging the landlord in coils of litigation and labyrinth of adversarial procedural laws. It is, in fact, unfortunate that a landlord/decree-holder having obtained a decree of eviction on 23-10-1997 in Civil Suit No. 133-A/89, which stands affirmed in First Appeal No. 13-A/2000,

decided on 13-12-2000 giving two month's to the judgment-debtor/tenant to vacate the suit premises and further affirmed by the said judgment and decree dated 27-4-2001 in S.A. No. 77/2001 by a Co-ordinate Bench of this Court. Eventually, Special Leave to Appeal (Civil) No. 10178/2001 arising therefrom at the instance of the appellant tenant/judgment-debtor having been dismissed on 29-11-2001 with the direction that the appellant/tenant/judgment-debtor to give an undertaking to the effect that he will vacate and handover peaceful possession of the suit premises to the landlord/plaintiff on or before 30-6-2002, the landlord/decree-holder was not delivered possession as appellant/tenant did not vacate the suit premises and acted contrary to the undertaking given before the Hon'ble Supreme Court. Instead of vacating the suit premises, he has filed objections under Order XXI Rule 97 of C.P.C. through his daughter-in-law and sons. The same was dismissed on 14-10-2003 by the Executing Court and affirmed upto by a Co-ordinate Bench of this Court vide order dated 5-3-2004 in S.A. No. 67/2004, Meena Valecha and others v. Rajmal Jalori and another. Thereafter, the appellant/judgment-debtor has filed an objection under Order XXI Rules 97, 98, 99 read with Section 151 of CPC. The same has been dealt with and dismissed by the Executing Court and affirmed by the First Appellate Court, which are impugned in this second appeal. As such, the landlord obtained decree in the year 1989 has not been able to reap the fruits of the decree upto the year 2014. More than 25 years has passed by and the appellant/judgment-debtor is enjoying the legal protection for all these years by resorting to adversarial procedural laws to the grave prejudice of rights and interest of the plaintiff/landlord/decree-holder. The conduct of the appellant/tenant/judgment-debtor is worth condemnation as despite having given an undertaking before the Hon'ble Supreme Court on 29-11-2001 (supra), to the effect that he will vacate and handover peaceful possession of the suit premises to the landlord on or before 30-6-2002 did not abide by his own undertaking and, hence, betrayed the trust reposed upon him by the Hon'ble Supreme Court.

4. That apart, after passing the impugned judgments/orders by the Courts below, the appellant/tenant/judgment-debtor instead of abiding by the undertaking has rushed to this Court and obtained interim protection on 2-9-2004 pending admission of the appeal. After 2-9-2004, for the first time, the case has come up

for consideration on 25-2-2014 before a Co-ordinate Bench of this Court, however, due to paucity of time, the matter could not be taken up for hearing and thereafter, the matter was listed on 23-4-2014 for consideration.

5. In view of the aforesaid facts and in the circumstances of the case and after having gone through the impugned judgments, this Court is of the opinion that both the Courts below have recorded a comprehensive findings of fact upon due appreciation of evidence on record. The entire gamut of matter is in realm of facts. No question of law much less substantial question of law arises warranting interference under Section 100 of the Code. The appeal sans merit and is accordingly dismissed with cost. Looking to the conduct of the appellant/tenant/judgment-debtor, cost of Rs. 25,000/- (Rupees Twenty five thousand only) is imposed, which shall be paid to the landlord/plaintiff/decreed-holder within fifteen days from today. It is made clear that as the appellant/tenant/judgment-debtor has given an undertaking before the Hon'ble Supreme Court on 29-11-2001 (supra), the Executing Court must ensure that the appellant/tenant/judgment-debtor will vacate and handover peaceful possession of the suit premises to the landlord/plaintiff/decreed-holder without further loss of time, i.e., forthwith and if need be, by providing police force.

6. Office is directed to transmit the original record to the Court below for necessary compliance, forthwith.

Second Appeal dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com