

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

C.R.P. No.4306 of 2015

Between:

M/s.Associated Automotives Sales

Private Limited and another ... Petitioners

And

R.K.Mahesh and others. ... Respondents

JUDGMENT PRONOUNCED ON 13.11.2015

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THE HON'BLE SRI JUSTICE G. CHANDRAIAH

1. Whether Reporters of Local newspapers

may be allowed to see the Judgments? :

2. Whether the copies of judgment may be
marked to Law Reporters/Journals. :

3. Whether their Ladyship/Lordship wish to
see the fair copy of the Judgment? :

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

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C.R.P. No.4306 of 2015

ORDER:

This revision petition has been filed aggrieved by the order dated 11.09.2015 passed in I.A. No.40 of 2015 in O.S. No.1177 of 2006 by the II Additional Senior Civil Judge, Vijayawada.

The revision petitioners filed I.A. No.40 of 2015 in O.S. No.1177 of 2006 under Order 1 Rule 10(2) and Section 151 CPC seeking to implead them as defendants 2 and 3 in the said suit for proper adjudication of the case and permit them to carry out necessary amendments if plaintiffs fail to carry out amendments in short and long

cause titles. The Court below vide impugned order dismissed the said application. Assailing the same, the revision petitioners filed the present revision petition.

When this matter was listed on 09.10.2015, this Court while ordering notice before admission, directed the parties to maintain *status quo* with regard to suit schedule property.

The learned counsel for the petitioners submitted that since the petitioners are in actual possession of the suit schedule property and carrying out their business, therefore, they are entitled to come on record for proper adjudication of the suit.

O.S. No.1177 of 2006 was filed by the 1st respondent herein against the 6th respondent herein in terms of the order dated 28.06.2006 passed in O.S. No.99 of 2003 on the file of the I Additional Senior Civil Judge, Vijayawada wherein the 6th respondent filed counter, *inter alia*, stating that he is not a tenant.

The learned counsel for the 1st respondent, landlord, vehemently contended that the suit was filed in the year 2006 seeking eviction of the 6th respondent in terms of the clause 14 of the conditions mentioned in the order dated 28.06.2006 passed in O.S. No.99 of 2003. But, neither the 6th respondent herein nor the revision petitioners are paying the rents to the landlord, 1st respondent herein, with an intention to cause monetary loss and inconvenience.

The learned counsel submitted that unless and until the revision petitioners are willing to deposit some amount *prima facie*, to show their *bona fides*, they are not entitled to come on record.

The submission made by the learned counsel to the effect that the revision petitioners be directed to deposit some amount to show their *bona fides* is not acceded since this is not an application where any amount is directed to be deposited to show their *bona fides* to come on record.

The point that arises for consideration is whether the application filed by the revision petitioners under Order 1 Rule 10(2) and Section 151 CPC was rightly adjudicated by the learned trial Court wherein the revision petitioners sought to come on record?

As could be seen from the record, the learned trial Court vide its impugned order dismissed the application on the ground that without getting impleaded them in the suit at the initial stage and at the far end of the matter, when the matter is posted for arguments of the 6th respondent, said application was filed only with an intention to protract the suit proceedings.

From a perusal of the record, averment of the petitioners is that they are the actual tenants in the plaint schedule property but the suit is filed showing the 6th respondent as defendant, who is said to be as tenant and the 6th respondent has no rights of tenancy and he simply signed as witness to the joint memo containing the terms and conditions, which was filed in O.S. No.99 of 2003.

Further, averment of the 1st respondent herein, landlord, is that neither the revision petitioners nor the 6th respondent is paying the rents to them.

It is true that the suit is of the year 2006 and it is categorically submitted that the 6th respondent and the revision petitioners are non other than the brothers. There might be understanding between them but ultimately the landlord is entitled to receive the rents.

In the event of failure in paying the rents by the tenants, who are proved to be tenants, in which case, eviction order needs to be passed in the suit. In such a case, the persons, who are the tenants on record and the persons, who are the tenants in actual possession, also needs to be come on record.

In that view of the matter, I see no reason to justify the impugned order passed by the learned trial Court. In the interest of all the parties, this Court feels that the order needs to be set aside and accordingly, the impugned order is set aside and the

revision petitioners are permitted to come on record.

However, having regard to the fact that the suit is of the year 2006 the Court below is directed to dispose of the suit as expeditiously as possible, preferably within a period of six months, from the date of receipt of a copy of this order, and also directed the parties to cooperative with the Court in all perspectives to dispose of the suit.

Further, it is left open for the landlord to make an appropriate application, if so desired, for recovering the rents from the persons, who are in actual possession of the property and in which case, the Court below shall consider the same and pass appropriate orders, in accordance with law.

In the result, this revision petition is allowed.

As a sequel, miscellaneous petitions, if any, stands closed. There shall be no order as to costs.

JUSTICE G.CHANDRAIAH

Date: 13.11.2015

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