

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELENGANA AND THE STATE OF
ANDHARA PRADESH

C.R.P.No.2093 of 2015

Between:

Mohammad Babu

.....Petitioner

and

Gandasiri Ramesh

.....Respondent

Date of Judgment pronounced : 03-08-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

1. Whether Reporters of Local newspapers : Yes/No
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked :
Yes/No
to Law Reporters/Journals:
3. Whether The Lordship wishes to see the fair copy : Yes/No
Of the Judgment?

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.2093 of 2015

ORDER:

Heard Sri C.Damodar Reddy, learned counsel for the

petitioner and Sri E.Venkata Reddy, learned counsel for respondent.

2. This Revision Petition is filed challenging the Order dt.05-05-2015 in I.A.No.120 of 2015 in R.C.C.No.14 of 2012 of the Principal Junior Civil Judge, Warangal.

3. Petitioner herein is the respondent in the R.C.C. The respondent herein had filed the said R.C.C. for eviction of the petitioner. The respondent had filed affidavit in lieu of chief examination on 24-10-2013 and on the same day marked Exs.P-1 to P-9. Thereafter, the matter was posted for cross examination of P.W.1. But even though it was adjourned at least 15 times and on two of those occasions, costs were imposed on the petitioner, he did not come forward to cross examine P.W.1. Similarly an opportunity was given to the petitioner but he also failed to cross examine P.W.2 who was supporting the case of the respondent. Ultimately on 23-01-2015, the Court forfeited the right of the petitioner to cross examine P.W.1 as well as P.W.2.

4. I.A.No.120 of 2015 was filed by the petitioner stating that on 19-01-2015 when he was supposed to cross examine P.W.1 and on 23-01-2015 when he was supposed to cross examine P.W.2, he could not get leave from his superior officers and therefore could not instruct his counsel to cross examine them and

therefore they should be both recalled for the purpose of cross examination.

5. Counter affidavit was filed by the respondent opposing the same. The respondent contended that the petitioner was never diligent in prosecuting the case and the docket itself speaks volume of his attitude. He contended that he was present on each and every date of hearing but the petitioner's counsel was absent and was continuously requesting the Court to grant time to cross examine. He pointed out that evidence of P.W.2 was also submitted but the learned counsel for the petitioner nor the petitioner never represented before the Court. He therefore prayed that the application be dismissed.

6. By order dt.05-05-2015, the Court below rejected the said application. It held that several opportunities, numbering at least 15, were given to the petitioner to cross examine P.W.1 and also similar opportunities were given to him to cross examine P.W.2 but he did not avail of the same. It held that the contention of the petitioner that he did not get leave for more than 15 adjournments is not a *bona fide* reason.

7. Challenging the same, this Revision Petition is filed.

8. Learned counsel for the petitioner

contended that on account of strike of the advocates and boycott of Courts, cross examination of P.Ws.1 and 2 could not be done by the petitioner and therefore one opportunity may be given to him to cross examine P.Ws.1 and 2.

9. The reason now pleaded by the learned counsel for the petitioner is not the reason mentioned in the affidavit filed in support of I.A.No.120 of 2015. Therefore, the plea of the learned counsel for the petitioner cannot be accepted.

10. Nothing is placed before me by the petitioner to show that the observation of the Court below that several opportunities were given to the petitioner to cross examine the witnesses is wrong. Proceedings under the AP Buildings (Lease, Rent and Eviction) Control Act, 1960 are summary proceedings and are supposed to be decided without undue delay.

11. In the present case, although the evidence of P.W.1 commenced from 23-05-2013 and subsequently P.Ws.1 and 2 had also filed affidavits in lieu of chief examination, till January 2015, the learned counsel for the petitioner kept on taking time and neither he nor the petitioner evinced any interest to cross examine P.Ws.1 and 2 and unduly delayed the disposal of the Rent Control proceedings. The conduct of the petitioner does not appear to be *bona fide* in view of the above facts.

12. Therefore, I am of the view that the Court below did not commit any error of jurisdiction in refusing to recall P.Ws.1 and 2 for the purpose of cross examination and in dismissing I.A.No.120 of 2015.

13. Therefore, the Civil Revision Petition is without any merit and the same is accordingly dismissed.
No costs.

14. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 03-08-2015

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