

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

**FOR THE STATE OF TELANGANA AND
THE STATE OF ANDHRA PRADESH**

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CIVIL REVISION PETITION No.2031 OF 2015

Between:

Farha Khan @ Dureswar

.. Petitioner

and

Bethany Baptist Church Society and another

.. Respondents

DATE OF JUDGMENT PRONOUNCED: July 24, 2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

1. Whether Reporters of Local newspapers Yes/No
may be allowed to see the Judgments?

2. Whether the copies of judgment may be Yes/No
marked to Law Reporters/Journals?

3. Whether their Ladyship/Lordship wish to Yes/No
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

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CIVIL REVISION PETITION No.2031 OF 2015

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ORDER:

This revision petition, under Article 227 of the Constitution of India, is filed by the respondent in R.C.No.245 of 2014 aggrieved by the order, dated 07.05.2015, passed in I.A.No.128 of 2015 in I.A.No.113 of 2015 in the said R.C. by the Principal Rent Controller – cum – XII Junior Civil Judge, Hyderabad.

Respondent No.1 – Society through its Vice President and respondent No.2, as General Secretary of respondent No.1 – Society, have filed the aforesaid R.C., under the provisions of A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960, seeking eviction of the petitioner from the petition schedule property. As the petitioner was set *ex parte* in the said R.C., she filed I.A.No.113 of 2015 to set aside the *ex parte* order. As respondent No.2 was not impleaded as party respondent in the said I.A., petitioner filed I.A.No.128 of 2015 to implead respondent No.2 as respondent No.2 in I.A.No.113 of 2015. The Court below, by impugned order, dated 07.05.2015, dismissed I.A.No.128 of 2015 mainly on the ground that

the said petition is filed under Order I Rule 10 read with Section 151 C.P.C., instead of filing under Order VI Rule 17 C.P.C..

In this revision petition, it is contended by the learned counsel for petitioner that mere mentioning of wrong provision of law, by itself, is not a ground to dismiss I.A.No.128 of 2015. It is further contended that by oversight, while filing I.A.No.113 of 2015, respondent No.2 was not impleaded as party respondent and as the *ex parte* order was obtained by both the respondents, the Court below ought to have allowed the petition.

On the other hand, it is submitted by the learned counsel for respondents that inasmuch as respondent No.2 is already a party in the proceedings, question of impleading him under Order I Rule 10 C.P.C. does not arise. It is further submitted that it is always open to the petitioner to file an application under Order VI Rule 17 C.P.C. and instead of filing the same, she filed the present revision petition and as such, the revision petition is not maintainable.

In this case, it is not in dispute that respondent No.1 - Society represented by its Vice President and respondent No.2 as General Secretary of respondent No.1 – Society filed the aforesaid R.C., under the A.P. Buildings (Lease, Rent and Eviction) Control Act, for evicting the petitioner from petition schedule property. As the respondents have obtained *ex parte* order against the petitioner, she filed I.A.No.113 of 2015 to set aside the same, but it appears that only respondent No.1 – Society was made as party respondent to that I.A.. It is to be noticed that a Society is always represented either by Vice President or General Secretary, but it is not known why both of them were shown as parties in the R.C. representing the Society. Further, in the affidavit filed in support of I.A.No.128 of 2015, in clear terms, it is stated that inadvertently respondent No.2 is not made as party respondent in I.A.No.113 of 2015. It is true that petitioner filed

I.A.No.128 of 2015, under Order I Rule 10 C.P.C., to implead respondent No.2 as party respondent in I.A.No.113 of 2015, but only on the ground that wrong provision of law is mentioned while filing I.A.No.128 of 2015, the same cannot be rejected. Inasmuch as the *ex parte* order was obtained by both the respondents, the Court below ought to have allowed I.A.No.128 of 2015 by treating the same as filed under Order VI Rule 17 C.P.C..

For the aforesaid reasons, the revision petition is allowed and the order, dated 07.05.2015, in I.A.No.128 of 2015 is set aside. Consequently, I.A.No.128 of 2015 stands allowed by treating the same as an application filed under Order VI Rule 17 C.P.C.. Accordingly, the cause title in I.A.No.113 of 2015 stands amended by showing the Society represented by its Vice President as respondent No.1 and its General Secretary as respondent No.2.

Miscellaneous Petitions, if any, pending in this revision petition shall stand closed. No costs.

R. SUBHASH REDDY, J

July 24, 2015

MD