

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.5122 OF 2014

ORDER:

Aggrieved by an order dated 09.12.2014 passed in I.A. No.2007 of 2012 in R.C.C. No.11 of 2012 on the file of the Rent Controller-cum-Principal Junior Civil Judge, Kurnool, the present Civil Revision Petition is filed under Article 227 of the Constitution of India.

The facts in issue are as under :

The first respondent/plaintiff filed an application under Order XXXIX Rules 1 and 2 read with Section 151 of Civil Procedure Code and Section 14(3) of A.P. Buildings (Lease, Rent and Eviction) Control Act (hereinafter referred as "the Act") seeking a mandatory injunction directing the respondents therein i.e., the petitioner and respondents 3 to 5 herein to restore the electricity supply to the petition schedule shop. By an order dated 09.12.2014 the said I.A., filed in R.C.C., was allowed granting mandatory temporary injunction in favour of the first respondent herein by directing the petitioner and respondents 3 to 5 herein to restore the electrical power supply to the petition schedule shop No.184 within one month from the date of the order. Challenging the same, the present Revision is filed.

The learned counsel for the respondents mainly objected to the maintainability of the Civil Revision under Article 227 of the Constitution of India on the ground that only an appeal would lie against an order passed in an Interlocutory Application in R.C.C.

The learned counsel for the petitioner submits that in view of the judgment of this Court in **Jaleel Khan v. M.Kamamma**, only a Revision lies and not an appeal. Before proceeding further, it would be useful to refer to certain provisions under the Rent Control Act.

Section 20 of A.P. Buildings (Lease, Rent and Eviction) Control Act reads as follows :

Appeal : (1) Any person aggrieved by an order passed by the Controller may, within thirty days, from the date of such order, prefer an appeal in writing to the Chief Judge, Small Causes Court in the cities of Hyderabad and Secunderabad and elsewhere to the subordinate Judge of if there are more than one Subordinate Judge, to the Principal Subordinate Judge having original jurisdiction over the area aforesaid. In computing the said

period of thirty days the time taken to obtain a certified copy of the order appealed against shall be excluded.

(2).....

(3).....

(4).....

Similarly Section 22 of the Act deals with Revision :

Revision :- (1) The High Court may, at any time, on the application of any aggrieved party, call for and examine the records relating to any order passed or proceeding taken under this Act by the Controller in execution under Section 15 or by the appellate authority on appeal under Section 20, for the purpose of satisfying itself as to the legality, regularity or of propriety of such order or proceeding, and may pass such order in reference thereto as it thinks fit.

A reading of Section 20 of the Act shows that an appeal lies against an order passed by the Rent Controller to the Appellate Forum. The provision does not anywhere indicate restricting the right of appeal to any particular kind of order.

Dealing with the provisions of **Delhi Rent Control Act, the Apex Court Central Bank of India Ltd., v. Gokal Chand** held as under :

“In the context of Section 38(1) the words ‘every order of the Controller made under this Act’, though very wide, do not include interlocutory orders, which are merely procedural and do not affect the rights or liability of the parties and in pending proceeding, the Controller may pass many interlocutory orders under Sections 36 and 37, such as orders regarding the summoning of witnesses, discovery, production and inspection of documents, issue of a commission for examination of witnesses, inspection of premises, fixing a date of hearing and the admissibility of a document or the relevancy of a question. All these interlocutory orders are steps taken towards the final adjudication and for assisting the parties in the prosecution of their case in the pending proceeding; they regulate the procedure only and do not affect any right or liability of the parties. The Legislature could not have intended that the parties would be harassed with endless expenses and delay by appeals from such procedural orders.”

Following the said judgment of the Apex Court, a Bench of this Court in **Chaganlal (Died) Sardarilal v. N.Pershad**, while interpreting Section 20 of the Act held that no appeal could be maintained against interlocutory order passed by the learned Rent Controller.

A Bench of this Court in *Jaleel Khan v. M.Kamamma* (cited first supra), after referring to the above two judgments, held that no appeal could be maintained under Section 20 of the Act if the interlocutory order which merely regulates the procedure

and does not affect the rights or liabilities of the parties. In Jaleel Khan's case this Court further held that the aggrieved party can approach the High Court under Article 227 of the Constitution of India assailing the order passed by the learned Rent Controller in an interlocutory application when he has no remedy either under Section 20 or under Section 22 of the Act.

As stated earlier, Section 20 of the Act provides an appeal to an aggrieved person against any order passed by the Rent Controller within 30 days from the date of such order to Chief Judge, Small Causes Court in the Cities of Hyderabad and elsewhere to Subordinate Judges. As held by the Apex Court, Section 20 of the Act does not anywhere restricts the right of an appeal to a particular kind of order. The said issue was also dealt with by this Court in **Channagiri Kotamma and 4 others v. Bachu Kotilingamsetti and another**. In the said case, a learned single Judge of this Court relying upon the judgment of Chaganlal (died) Sardarilal v. N.Pershad, held that it was not every order of the Rent Controller that would become appealable, nor, would it mean that only final orders passed by the Rent Controller are appealable and not interlocutory orders. The Court held that "the test is whether it is an order affecting any rights or liabilities of the parties. Only such orders that affects rights and liabilities would become appealable and not all interlocutory orders which amount only to steps taken towards the final adjudication and for assisting the parties in the prosecution of their cases in the pending proceedings, thus regulating the procedure and not affecting any right or liability."

In the above case (fourth supra), the Court after referring to the Bench judgment in Chaganlal (died) Sardarilal v. N.Pershad and also another judgment of learned Single Judge of this court in **K.Sitarama Rao v. Ratanlal Panwar** held that an appeal lies against an order passed by the learned Controller in disposing of an application under Order I Rule 10 C.P.C.

From the judgments referred to above, it is clear that an appeal would lie under Section 20 of the Act if an interlocutory order passed by the Rent Controller substantially affects the rights or any liabilities of the parties. In the instant case the relief sought for in the I.A. is for restoration of electrical supply to the petition schedule shop, which was allowed. The relief sought for in I.A., cannot be a step taken towards final adjudication and assisting the parties in the prosecution of their case in pending proceedings. The order under challenge substantially affects the rights of the parties. Hence, the Civil Revision Petition filed under Article 227 of the

Constitution is not maintainable and the only remedy available to the petitioner is by way of filing an appeal under Section 20 of the Act.

Accordingly, the Civil Revision Petition is dismissed on the ground of maintainability. No costs.

As a sequel thereto, Miscellaneous Petitions pending if any in this Civil Revision Petition, shall stand closed.

The Registry is directed to return all the originals filed along with the Civil Revision Petition.

C. PRAVEEN KUMAR, J

Date:24 .03.2015

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