

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

CIVIL REVISION PETITION No. 526 of 2015

DATED 3rd November, 2015

BETWEEN

Smt. N.Andalamma

...Petitioner

And

Sri Padyuman K.Shah and anr

...Respondent.

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

CIVIL REVISION PETITION No. 526 OF 2015

ORDER:

The petitioner in the present Civil Revision Petition is the third party to the proceedings in RC.No.359 of 2013. RC.No.359 of 2013 was filed by the first respondent herein who is the landlord seeking eviction of the second respondent herein who is tenant. An order of eviction was passed on 5.5.2014. Thereafter the first respondent filed EP.No.17 of 2014 and the second respondent was evicted on 27.3.2015. When EP was pending, the petitioner filed EA.SR.No.3021 of 2014 on 17.12.2014 seeking to set aside the *ex parte* order dated 5.5.2014 passed in RC.No.359 of 2013. The said EA.SR was dismissed by the learned III Additional Rent Controller, Hyderabad through

order dated 19.01.2015. Challenging the said order, the present Civil Revision Petition is filed.

The main grounds on which the petitioner filed claim petition are that she is the owner of the premises bearing No.11-6-151 to 189 including schedule property bearing No. 11-6-188 by virtue of the provisions under Andhra Pradesh (TA) Inam Abolition Act 1955 and that the rights of the first respondent are extinguished as he was only a leaseholder. The property on which building was constructed is a service inam land. The petitioner filed O.S.No.6521 of 2000 against the family members of the first respondent on the file of the learned VIII Junior Civil Judge, City Civil Court, Hyderabad and the said suit was dismissed. Since RC No. 359 of 2013 was filed without impleading the petitioner, the order passed in the said RC is not binding on her, and the petitioner came to know of pendency of the proceedings only on 2.12.2014 when the bailiff visited the schedule property for execution of warrant.

As stated above, pursuant to the dismissal of the claim petition on 19.1.2015, the second respondent was evicted from the schedule property. The learned Rent Controller observed that the petitioner herself stated that she was not in possession of the schedule property and in view of the same, the petition is not maintainable. After elaborate consideration of the case laws cited by the learned Counsel for the petitioner, the learned Rent Controller observed that the petition filed under Rule 23(7) of the AP Buildings (Lease, Rent and Eviction) Control Rules, 1961 is not maintainable and that the petitioner is not having possession over the petition schedule property.

If the petitioner disputes the ownership of the first respondent, it is always open for her to initiate appropriate legal proceedings challenging the claim made by the first respondent. The petitioner is not the necessary party after disposal of Rent Control proceedings initiated by the first respondent so as to stall the proceedings of eviction. The order passed by the learned Rent Controller in RCC No. 359 of 2013, dated 19.01.2015 does not stand in the way of the petitioner from establishing her title and interest over the petition schedule property. On the basis of the claim made by the petitioner, *prima facie*

it is clear that the order of the learned Rent Controller dated 5.5.2014 need not be set aside as the petitioner has failed to establish the relationship of landlord and tenant between her and the first respondent. The Civil Revision Petition is thus liable to be dismissed.

The Civil Revision Petition is accordingly dismissed. Miscellaneous petitions pending consideration if any in the Civil Revision Petition shall stand closed in consequence. No order as to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 3rd November, 2015.

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