

THE HON'BLE SRI JUSTICE K.C. BHANU

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CIVIL REVISION PETITION No.1358 OF 2015

ORDER:

This Civil Revision Petition, under Section 22 of the Andhra Pradesh Buildings (Lease, Rent & Eviction) Control Act, 1960 (for short, 'the Act'), is directed against the Order and decree, dated 23.02.2015, in Execution Petition No.79 of 2012 in Rent Control Case No.1 of 1990 passed by the Junior Civil Judge, Vinukonda, Guntur District.

2. The aforesaid Execution Petition was filed under Order XXI Rule 22 of the Code of Civil Procedure, 1908 (for short, 'CPC') and Section 15(1) of the Act for delivery of the petition schedule properties and the same was dismissed on the ground that for eight long years, the petitioner has not evinced any interest seeking eviction of the tenant from the schedule properties.

3. Learned counsel for the revision petitioner contended that the Order of the Executing Court is contrary to the provisions of Section 15 of the Act; that the delay on the part of the petitioner is neither wanton nor wilful and therefore, he prays to set aside the impugned Order.

4. The petitioner obtained the eviction order against the respondents/tenants on 18.11.2000 in R.C.C.No.1 of 1990 on the file of the Rent Controller-cum-Junior Civil Judge, Vinukonda, whereunder the respondents therein were directed to vacate the petition schedule building on or before 01.01.2001. The said Order of the Rent Controller, Vinukonda was confirmed by the Principal Senior Civil Judge, Narasaraopet on 18.07.2003 in R.C.A.No.1 of 2001. Therefore, the Order of eviction has become final. As judgment debtor No.3 has failed to deliver the vacant possession to the petitioner, the present execution petition was filed.

5. Rule 23 (1) of the Andhra Pradesh Buildings (Lease, Rent & Eviction) Control Rules, 1961 (for short, 'the Rules) reads as follows:

“23(1) Every application for the execution of orders passed under this Act shall be in writing signed and verified by the decree-holder and filed before the Controller within six months from the date of the order accompanied by a certified copy of the order concerned together with the necessary process fee.

Provided that an application may be admitted after the specified period if the applicant satisfies the Controller that he has sufficient cause for not preferring the application within such period.”

A perusal of the above Rule makes it clear that for execution of the Order of eviction, an application has to be filed within six months from the date of the order. However, proviso to Rule 23(1) of the Rules provides that an application may be admitted after the specified period, if the applicant satisfies the Controller that he has sufficient cause for not preferring the application within such period.

6. After lapse of eight years i.e., in the year, 2012, the application was filed for evicting judgment debtor No.3 in pursuance of the Order of eviction passed by the Rent Controller, which was confirmed in the appeal. The petitioner has to show sufficient cause for not filing the application for eviction of the tenant within six months from the date of finality of order of eviction.

7. As seen from the affidavit filed in support of the petition, no sufficient cause has been shown for not filing an application for eviction of the tenant for about eight long years. Therefore, the Executing Court rightly dismissed the same and that order needs no interference by this Court as there is no illegality in passing the said Order.

8. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this revision shall stand closed.

JUSTICE K.C. BHANU

Date:17.04.2015

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