

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition Nos.2103, 2042 and 2045 of 2015

Date: 16-12-2015

Between:

Vijayendra Jain

.. Petitioner

AND

M. Lalitha

.. Respondent

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition Nos.2103, 2042 and 2045 of 2015

COMMON ORDER:

These three Civil Revision Petitions are being disposed of by this common order as they arise out of the same cause of action.

The petitioner is a tenant. The respondent herein filed R.C.No.9 of 2001 on the file of Principal Junior Civil Judge-cum-Rent Controller, Ranga Reddy District at L.B. Nagar for eviction of the petitioner herein from the premises bearing No.8-82/3 (old No.8-82/3/6), M.C.H.No.8-82/B on land admeasuring 27 square yards equivalent to 22.57 Sq.mtrs. out of 578 square yards situated in S.No.247, Gaddiannaram village, Saroor Nagar Mandal, Ranga Reddy District. After adducing both oral and documentary evidence, the application of the respondent herein was allowed on the ground of bonafide requirement and wilful default by the order dated 02-06-2009. The petitioner herein was examined as RW.1 and he filed documents Exs.R.1 to R.19 in support of his case.

Against the said order dated 02-06-2009, the petitioner filed R.A.No.6 of 2009 before the Principal Senior Civil Judge, Ranga Reddy District. In the said appeal, he filed four applications viz., I.A.No.211 of 2010 seeking to recall RW.1 for further evidence, I.A.No.212 of 2010 seeking to recall PW.1 for cross-examination, I.A.No.213 of 2010 seeking permission to amend the counter in R.C.No.9 of 2001 filed before the Rent Controller and I.A.No.214 of 2010 seeking to receive certain documents as additional evidence.

The learned Principal Senior Civil Judge, Ranga Reddy allowed I.A.No.214 of 2010 filed for receiving additional evidence by the order dated 26-03-2015 and the documents were received as additional evidence. However, I.A.No.211 of 2010, I.A.No.212 of 2010 and I.A.No.213 of 2010 were dismissed by separate orders dated 24-01-2015 and 26-03-2015, challenging which the present Civil Revision Petitions are filed.

In respect of I.A.No.213 of 2010, which is filed for amendment of the counter, the petitioner herein, who is appellant before the learned Senior Civil Judge, Ranga Reddy, filed an affidavit stating as follows:

“I submit that in the counter filed by me in the trial Court, I have taken a plea that apart from the RC schedule premises, respondent herein is also having another non-residential premises at Dilsukhnagar, Hyderabad. I submit that the property situated at Dilsukhnagar is owned by the respondent herein and her husband, which consist of residential as well as non-residential units. I submit that though efforts were made by me in the trial court to place relevant documents but I could not do so. I submit that in the non-residential premises situated at Dilsukhnagar, respondent herein is carrying on the business of tailoring. I submit that the trial Court for want of record, did not appreciate my plea as to availability of another non-residential premises to the respondent herein and accepted the contention of the respondent herein and ordered my eviction on the ground of bonafide personal requirement.....”

He also stated that recently after tough persuasion with the municipal authorities, he came to know that the house property bearing Municipal No.19-67/3, situated at Dilsukhnagar was standing in the name of the respondent and her husband and it was assessed with tax structure for commercial as well as residential purposes. He further stated as follows:

“.....I am advised to submit that the appeal is the continuation of original proceedings and I cannot be debarred from making necessary amendments to my counter, filing documents and recall witnesses for the purpose of further evidence. I submit that no prejudice will be caused to the respondent, if I am permitted to amend the counter, file necessary documents as per the list and to recall PW.1 and RW.1 for further evidence. In fact, respondent will have an opportunity to cross-examine me on the documents now filed and the same will be of assistance to this Hon'ble Court in proper administration of justice. I submit that if opportunity is not given to me, I will be put great hardship and irreparable loss and will not be in a position to canvass my case properly.....”

A counter is filed stating that the petitioner failed to establish the reason for placing the relevant documents before the trial Court and the trial Court ordered eviction on the ground of *bonafide* requirement, as it came to the conclusion that the respondent is not having any non-residential premises. The respondent further asserted that she had no commercial premises except the petition schedule mulgi. She further stated that the petitioner expanded his business as five shops and doing the business through his joint family members under the guise of services of his brother advocate and harass the people for becoming rich in the society, and hence there is no truth in the allegation that his livelihood is deprived. She further stated that she purchased a constructed house from third party and by the date of purchase, it is residential house and she is not aware the

category under which the taxes were collected, but she never used it as a commercial premises.

The lower Appellate Court, after considering the rival pleadings and hearing the learned counsel on both sides, held that the proposed amendment is nothing but a subsequent event after filing of the counter on 05-06-2002. The pleadings of the petitioner herein were taken into consideration by the Rent Controller and considered the same and the Appellate Court would consider the relevancy of the documentary evidence and take an appropriate decision and noted that the additional evidence already taken was on record and there is no necessity for amendment of the counter dated 05-06-2002.

I have carefully gone through the affidavit filed in support of the application seeking amendment of the counter and also the detailed counter filed by the respondent. The petitioner is aware of the facts and the petitioner had got full opportunity to substantiate his case before the learned Rent Controller. In fact, he filed as many as 19 documents. In the present application, he has not shown any ground except stating that though efforts were made by him to place relevant documents before the Rent Controller, but he could not do so, what were the efforts made by him were not stated. He also stated how he came to know with regard to the nature of the house property bearing Municipal No.19-67/3, P & T Colony, Dilsukhnagar, Hyderabad. The said fact was available even at the time of filing of the counter.

In the circumstances, there are no merits in the present Civil Revision Petitions and the order dated 23-01-2015 in I.A.No.213 of 2010 in R.A.No.6 of 2009 is upheld. Since I.A.No.212

of 2010 in R.A.No.6 of 2009 and I.A.No.211 of 2010 in R.A.No.6 of 2009 against which C.R.P.No.2042 of 2015 and C.R.P.No.2045 of 2015 are filed are consequential to I.A.No.213 of 2010 in R.A.No.6 of 2009 filed for amendment of the counter, those revision petitions are liable to be dismissed upholding the orders dated 26-03-2015 passed in I.A.No.212 of 2010 in R.A.No.6 of 2009 and I.A.No.211 of 2010 in R.A.No.6 of 2009.

Accordingly, the Civil Revision Petitions are dismissed. No costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 16-12-2015

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