

**HON'BLE SRI JUSTICE R.SUBHASH REDDY**

**CIVIL REVISION PETITION No.2393 of 2015**

**ORDER :**

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/tenant aggrieved by the order dated 08.05.2015 in I.A.No.73 of 2015 in R.C.No.207 of 2008 passed by the Additional Rent Controller, Secunderabad, dismissing the application filed by the petitioner/tenant under Order VI Rule 17 r/w. Section 151 of C.P.C., seeking permission for amendment of counter.

2. The respondent/landlord has filed R.C.No.207 of 2008 before the Additional Rent Controller, Secunderabad, seeking eviction of the petitioner/tenant from the petition schedule premises on various grounds, including the ground of default of payment of rents. The petitioner/tenant has filed counter, wherein he has taken a stand that the respondent/landlord has taken several amounts in the year 1999 and in view of receipt of such amounts, the petitioner/tenant was allowed to stay in the petition scheduled premises without payment of rent.

3. Subsequently, contrary to the aforesaid stand, the petitioner/tenant has filed the an application being I.A.No.73 of 2015 in R.C.No.207 of 2008 under Order VI Rule 17 r/w. Section 151 of C.P.C., seeking permission for amendment of counter by incorporating a paragraph, stating that he has purchased the petition schedule premises by a notarized sale deed dated 24.6.2001 and in that capacity, he is in possession and enjoyment of the petition schedule premises as owner. After considering the material on record, the Court below dismissed the said application through the impugned order dated 8.5.2015. Hence, the present civil revision petition.

4. Sri J. Kanakaiah, learned counsel for the petitioner/tenant contents

that even by allowing the aforesaid application, the nature of the building will not be changed and, as such, the Court below has committed an error in dismissing the application.

5. On the other hand, Sri V. Ramachander Goud, learned counsel for the respondent/landlord, submits that the petitioner/tenant has not taken such a stand in the counter filed in the main petition and only to protract the litigation, the present application is filed, at a belated stage. The learned counsel would further submit that in the aforesaid R.C., the trial has already commenced and the chief affidavit of the landlord has been filed.

6. It is to be seen that in view of the proviso under Order VI Rule 17 of C.P.C., it is clear that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that inspite of due diligence, the party could not have raised the matter before commencement of trial.

7. In the instant case, the R.C. was filed in the year 2008 and in the counter filed by the petitioner/tenant, the claim of purchasing the petition schedule premises was never pleaded. By virtue of the present application, now, the petitioner/tenant wants to plead that he has purchased the petition schedule premises pursuant to a notarized sale deed executed in his favour on 24.6.2001. If that be so, there is no reason for not taking such a plea in the original counter filed in the aforesaid R.C. In any event, in view of the proviso contained under Order VI Rule 17 C.P.C., no case is made out warranting interference by this Court, at this stage, in exercise of powers under Article 227 of the Constitution of India.

8. For the aforesaid reasons, this civil revision petition is devoid of merits and is accordingly dismissed, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

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JUSTICE R. SUBHASH REDDY

31.07.2015.

Msr

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