

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION Nos.2424 and 2461 of 2015

COMMON ORDER:

These Civil Revision Petitions are filed under Article 227 of the Constitution of India by the respondent in R.C.No.170 of 2012 on the file of the Principal Rent Controller, Secunderabad, aggrieved by the order dated 04.06.2015 passed in I.A.No.28 of 2015 and order dated 26.11.2013 passed in I.A.No.207 of 2013 respectively; as such, they are heard together and disposed of by this common order.

2. The 1st respondent herein originally filed R.C.No.170 of 2012 on the file of the Principal Rent Controller, Secunderabad under Section 4 of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short "the Act") for fixation of fair rent at Rs.250/- per Sq.ft. for the petition schedule property, i.e. house bearing No.1-2-74 to 76 admeasuring 1400 Sq.ft., situated at Parklane, Secunderabad. During pendency of the proceedings, as the 1st respondent herein died, her sons, i.e. respondents 2 and 3 herein came on record. It is their case that their mother bequeathed the petition schedule property in their favour by executing Will dated 25.08.2010, as such, they became joint owners of the petition schedule property. It is also their case that other legal representatives were allotted other properties, as such, they are not necessary parties to the aforesaid R.C.

3. In the R.C., it is the case of the respondents that the petition schedule property is most ideally situated for carrying on business and the same is on the main Parklane road directly abutting Western side of the road. It is pleaded that the frontage of the shop is about 40 ft., and in view of its strategic location, it would easily fetch a rent of Rs.250/-per Sq.ft. Accordingly, respondents sought fixation of rent at Rs.250/- per Sq.ft.

4. In the R.C., evidence of the respondents is completed and when the case was coming for the evidence of the petitioner, petitioner has filed two Interlocutory Applications. I.A.No.28 of 2015 is filed under Rule 7(5) of the A.P. Buildings (Lease, Rent and Eviction) Control Rules, 1961 (for short "the Rules") praying to receive some documents after condoning delay if any. The documents sought to be marked are photographs showing the name board of "TARUNI" for the purpose of seeking comparative assessment of rents of that premises. The said documents also include visiting cards of "TARUNI" pertaining to third parties and internet printouts of *Sulekha.com* and also *driveat.com*, computer generated tax receipt and municipal tax receipt of the premises in question, copy of the legal notice and counterfoils of the receipt and unregistered partnership deed and some documents marked in R.C.No.51 of 2013. I.A.No.207 of 2013 is filed under Order I Rule 10 read with Section 151 CPC seeking to permit the petitioner herein to implead all the children of late Smt.Kunj Bai

Chugani, i.e. the 1st respondent herein, as co-petitioners in the R.C. I.A.No.207 of 2013 is dismissed by order dated 26.11.2013, mainly recording a finding that for fixation of fair rent for the tenanted premises, impleadment of the proposed parties is not necessary. Further finding is recorded to the effect that even in the absence of proposed parties, the main R.C., can be decided effectually and completely, as such, there is no need to implead the proposed parties to the R.C. I.A.No.28 of 2015 is dismissed by order dated 04.06.2015 on the ground that the documents which are sought to be filed are not relevant and inadmissible. At the same time, it is held that the main R.C., is at the stage of recording evidence of the respondent therein.

5. Heard Sri S. Balchand, learned counsel for the petitioner and Sri Shyam S. Agrawal, learned counsel for the respondents.

6. It is contended by the learned counsel for the petitioner that the learned Principal Rent Controller has rejected I.A.No.28 of 2015 without assigning valid reasons; when application is filed under Rule 7(5) of the A.P. Rent Control Rules praying the Court to receive the documents, it is not open to reject the same by recording a finding that the said documents are not relevant and inadmissible; when such stand is taken in the counter, a memo is filed explaining the relevancy of the documents; in spite of the same without assigning valid reasons, I.A.No.28 of 2015 is rejected. It is

further contended that as the documents are genuine and necessary to prove the case of the petitioner that rent which is being paid represents the fair rent, the learned Principal Rent Controller ought not to have rejected the said I.A. To substantiate the above contentions, learned counsel for the petitioner relied on the following decisions:

- Gopidi Naga Reddy v. K. Sriram and 4 others^[1]
- Kancherla Saradha Devi v. Saripella sivaramaraju and others^[2]
- N. Narayana Reddy v. G.R. Subba Reddy^[3]
- Aravapalli Sriranganayakulu v. Godavarthi Leelavathi and others^[4]
- P. Venkamma v. Sayana Venkata Rathnam and others^[5]
- Sirigudi Adinarayana v. Bodla Mariamma^[6]
- Setti Siddamma v. s. Ramulu and another^[7]
- Raptakos Brett & Co. Ltd. V. Ganesh Property^[8]

7. It is also contended by the learned counsel for the petitioner that even I.A.No.207 of 2013 is rejected without assigning any reasons; there are other legal representatives of the 1st respondent herein who died during pendency of the proceedings and the petitioner will be accountable for the rents in view of the dispute among the heirs with regard to the petition schedule property.

8. On the other hand, it is contended by the learned counsel for the respondents that, for the purpose of deciding the petition for fixation of fair rent, other heirs are not necessary parties; petitioner herein who is the respondent in the R.C., cannot seek impleadment of other legal representatives as co-petitioners in the R.C., more particularly in view of the Will executed by their late mother Smt.Kunj Bai Chugani. It is further contended that the said I.As., are filed only to protract the litigation and the documents which are sought to be filed by way of petition under Rule 7(5) of the Rules are totally irrelevant for deciding the *lis* between the parties.

9. Having heard the learned counsel for the parties, I have carefully perused the material on record and the decisions relied on by the learned counsel for the petitioner.

10. For the purpose of deciding these petitions, it is necessary to refer Rule 7(5) and 7(6) of the Rules, which read as under:

“(5) No documentary evidence in the possession or power of any party which should have been, but has not been, produced in accordance with the requirements of sub-rule (4) shall be received at any subsequent stage of the proceedings unless good cause is shown to the satisfaction of the Controller for the non-production thereof; and the Controller receiving any such evidence shall record the reasons for so doing.

(6) The Controller may at any stage of the case reject any document which he considers irrelevant

or otherwise inadmissible, recording the grounds of such rejection.”

11. From a perusal of Rule 7(5), it is clear that if any documents are not produced in accordance with sub-rule (4), they cannot be received at any subsequent stage unless good cause is shown to the satisfaction of the Controller for non-production thereof at earlier stage. Rule 7(6) makes it clear that the Controller may at any stage of the case reject any document which he considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.

12. It is the case of respondents 2 and 3 herein that having regard to the strategic location of the petition schedule property, the petition schedule property fetches more rent and accordingly they claim Rs.250/- per Sq.ft. It is their case that the petition schedule property is at the junction in Parklane near Chenoy Trade Centre, Secunderabad. When the relevancy and admissibility of the documents is disputed in the counter-affidavit filed by the respondents 2 and 3 before the Rent Controller, petitioner filed memo dated 07.05.2015 explaining the relevancy. As evident from the memo so filed, relevancy is explained as under:

“Petition filed for receiving document under Rule 7(5) of the Rules framed under APB (LRE) Control Act, 1960.

Rule 7(5) reads as follows:

“No documentary evidence in the possession or power of any party which should have been, but has not been, produced in accordance with the requirements of sub-rule

(4) shall be received at any subsequent stage of the proceedings unless good cause is shown to the satisfaction of the Controller for the non-production thereof; and the Controller receiving any such evidence shall record the reasons for so doing.

Rule 7(6) reads as under:

(6) The Controller may at any stage of the case reject any document which he considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.”

It is therefore manifest that while under Rule 7(5), the courts have to consider the delay explained in the affidavit in filing the documents. Rule 7(6) provides for a contingency where at any stage of the case, the court is entitled to reject any document already received which the court considers **irrelevant** or otherwise **inadmissible**.

Therefore it is clear that even if the Hon'ble Court should receive any documents whether relevant or inadmissible after condoning the delay that court has every right at a later stage to reject the said document(s), if the court satisfied that the document(s) are irrelevant or inadmissible. In the instant case the court at this stage is considering the explanation given by the party in filing documents at a belated stage. The reasons for delay have already been explained in the affidavit, which are not contraverted. Therefore the contentions raised by the other side that even at the preliminary stage or at the threshold the court can reject the application on the ground that some documents are either irrelevant or inadmissible, cannot be accepted.

In this connection and with reference to order 7 Rule 14 which is equivalent to rule 7(5) of the Rent Control Act, our own High Court has held that the documents can be received notwithstanding the objections.

After amendment to Evidence Act and following the passing of RTI Act and following the introduction of Cyber Laws, it is clear that computerized statements and computer generated documents could be received in Evidence. They are also used as secondary evidence under Sec.65 and Sec.66 of the Evidence Act. We have come a long way since the passing of the Evidence Act in the year 1872. Some of the provisions, have since become archaic and anachronic following the introductions of Cyber Laws. The old and antiquated laws require change in the light of the advancement in technology.

In case, the Honuorable Court decides to consider the relevancy of the filed documents now, please find below my reply to each of the objections raised by the other side:

S.No.	Description of the document	Objection raised	Relevancy explained
1.	Photographs showing the name board "Taruni"	The petitioner i s nowhere concerned with Taruni. T h e said photographs are no way relevant to decide the present lis between the parties.	The petitioner witness called upon in RC 170 of 2012, clearly cited Taruni and also the rents of Taruni are listed in the bank statements filed by the witness, which is already marked. This is very much connected. The rent is specific only for an area rented out, we are trying to prove here that Taruni is not just in the Ground floor of the Chinoy Mehmood Complex as per the false testimony of the witness, but also in the third and

			fourth floors of the Chinoy Mehmood Complex and the building is new with several modern amenities. The visiting cards as well as the photo clearly prove the same. The rental deed is also not produced by the witness to show the rent paid for the total area, this is uncertain. In such a case, the testimony of the witness cannot hold good. The photographs are taken in the fourth floor of Chinoy Mehmood Complex and a Commission may be set up to verify the same.
2.	Visiting cards	The visiting cards pertaining to third parties cannot be filed into evidence	Visiting cards can definitely add to the evidence. The relevancy of the visiting cards is to prove that Taruni is also located in the 3rd & 4th floors of Mehmood Chinoy Complex as well and not just in the ground floor as falsely stated by the witness.

3.	Internet print out of Sulekha.com and Internet printout of driveat.com	The said document is not an authenticated copy or a true copy and is only a Xerox. There is no authenticity to that document and any person is entitled to post on the website which is made without any verification. There is no legal sanctity to the same.	These are direct computer generated prints from the internet. The relevancy of this document is that the petitioner witness is an employee of Mahmood Builders and is very much the contact person for them. He is not an independent witness, but is an employee of the petitioners lawyer. The petitioner has himself categorically stated in the legal proceedings, that Mr. Shameer is an accountant at Mahmood Builders. No person will post the wrong contact details of his company. There is a legal sanctity to the same.
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4&5.	Computer Generated Property Tax Receipt & Municipal Tax Receipt	The present petition is only filed for the fixation of fair rent and as such the question of the said document being filed in evidence is of no avail. The said document is computer generated and is not admissible in evidence.	Both these documents are submitted in original as handed over by the G H M C officials. As the arrears statement is taken from the GHMC website it is very much authentic and the receipt is also given by GHMC. This is very much relevant as the rents need to be adjusted against the property taxes paid by the tenant. The petitioner has clearly stated that he is paying the property taxes. This document is also very relevant because it shows the GHMC rental assessment for PSP @ Rs.10 per sft.
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6.	Copy of legal notice, counterfoils of receipt	The said legal notice is in no way connected to the present lis and as such the said document is also of no consequence.	This document is very much of consequence as it is serving a notice to the so called l e g a l heirs notifying them that the rent needs to be adjusted with the amount of the property taxes which is paid by the tenant as per law. It also details the highhandedness of the landlords in instigating the GHMC officials to collect the arrears from the tenant, who is a senior citizen. I n fact, there are several disputes between the petitioners till date, which is evident as in OS 147 of 2012.
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7.	Unregistered Partnership Deed	The said document is not registered and the same cannot be received in evidence. It is settled law that a document which requires registration and is not registered, then a single line in that document also cannot be considered.	Partnership deed need not be compulsorily registered and it is optional. Registration of the Firm is an entirely different issue. Therefore Partnership Deed can be received in evidence without it being registered. Both RC No.170 of 2012 and RC No.51 of 2013 relate to the same issue. If fair rent is fixed by this HC in RC No.170 of 2012 filed by landlord, the q u e s t i o n still remains as to whom the fair rent has to be paid, since there are rival claims.
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8.	Documents marked in RC No.51 of 2013	The said documents are no way concerned to the present lis. The RC No.51 of 2013 and the present RC are filed for two separated reliefs and such the said documents are filed only to complicate the issue	The said documents are very much relevant and connected. The same are essential to understand and present the facts of the case in toto. Till date, the original will of the landlady is not deposited in the Court. In fact, there are several disputes among the petitioners till date, which is evident as in IS 147 of 2012. In fact, I received a notice from one another claimant for the share in the rent. These issues need to be addressed.
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13. In spite of such memo, the Rent Controller dismissed I.A.No.28 of 2015 by recording a vague finding that the documents filed by the petitioner are no way concerned to the present case. In the decisions relied on by the learned counsel for the petitioner, which are referred above, this Court has consistently held that when documents are filed at subsequent stages and they are above suspicion, it is incumbent on the Court to receive them. While considering identical provision under Order 13 Rule 2 CPC, this Court in the case of *Kancherla Saradha Devi* (2 supra) held that at the stage of receiving documents, requirement is to show to the satisfaction of the Court whether good cause is shown or not for not filing documents earlier. Further, in the case of *N.*

Narayana Reddy (3 supra) a learned single Judge of this Court has held that relevancy and admissibility of the document cannot be gone into at the stage of receiving the document. Same view is taken by another learned single Judge of this Court in *Sirugudi Adinarayana v. Bodla Mariamma* (6 supra) by holding that the Courts while granting leave for production of documents cannot go into the admissibility or relevancy of the documents.

14. As much as I.A.No.28 of 2015 is filed seeking permission to receive documents referred above, this Court is of the view that the Rent Controller dismissed the said I.A., exceeding the scope of the application by examining the relevancy and admissibility of the documents. It is true, by filing memo in I.A.No.28 of 2015 relevancy and admissibility is explained, but such aspect can be considered only at the time of marking the documents. As such, this Court is of the view that the order dated 04.06.2015 passed in I.A.No.28 of 2015 is to be set aside by directing the Rent Controller to receive the documents which are filed along with I.A.No.28 of 2015. At the same time, it is open to the Rent Controller to examine the relevancy and admissibility of such documents when they are sought to be marked. Insofar as I.A.No.207 of 2013 is concerned, as much as the said I.A., is filed seeking fixation of fair rent and, further, as it is not in dispute that respondents 2 and 3 herein are the sons of the original landlady, this Court is of the view that it is not for the petitioner to seek impleadment of other legal representatives of the original landlady as co-petitioners in the R.C. It is to

also to be noticed that the petitioner also filed separate application for deposit of rents by impleading all the legal representatives of the original landlady. As the R.C., is filed in the year 2012 and in view of the apprehension of the respondents that the I.As., are filed to protract the litigation, this Court is of the view that it is evidently a fit case to direct the Rent Controller to dispose of the R.C., itself in a fixed timeframe.

15. For the reasons referred above, C.R.P.No.2424 of 2015 is allowed and the order dated 04.06.2015 passed in I.A.No.28 of 2015 is set aside. Consequently, I.A.No.28 of 2015 stand allowed. It is made clear that this Court has not gone into the relevancy and admissibility of the documents and it is open to the Rent Controller to examine the same when they are sought to be marked.

16. C.R.P.No.2461 of 2015 is dismissed confirming the order dated 26.11.2013 passed in I.A.No.207 of 2013 with a direction to the Rent Controller to dispose of R.C.No.170 of 2012 as expeditiously as possible preferably within a period of three (3) months from the date of receipt of this order. No order as to costs.

As a sequel, miscellaneous petitions if any pending in the Civil Revision Petitions stand closed.

R. SUBHASH REDDY, J

18th September, 2015
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[\[1\]](#) ANDHWR-1976-2-29

[\[2\]](#) AIR 1995 AP 291

[\[3\]](#) 2000 (1) ALT 69

[\[4\]](#) 2001 (3) ALD 516

[\[5\]](#) 2001 (3) ALD 518

[\[6\]](#) 2004 (1) ALD 440

[\[7\]](#) 2004 (5) ALD 14

[\[8\]](#) (1998) 7 SCC 184