

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

C.R.P.No.4247 OF 2014

Between:

Avanigadda Satyanarayana

... Petitioner(s)

and

Karumuri Ramalingeswara Rao

... Respondent (s)

DATE OF JUDGMENT PRONOUNCED: ***05th August, 2015.***

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

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|---|---|--------|
| 1 | Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be
marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

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**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.4247 OF 2014

ORDER :

This Civil Revision Petition is filed challenging the order dt.10.09.2014 in RCA No.1 of 2011 of the Senior Civil Judge, Bhimavaram confirming the order dt.31.10.2011 in RCC.No.4

of 2006 of the Rent Controller-cum-Principal Junior Civil Judge, Bhimavaram.

2. The petitioner herein is the tenant of the respondent. The respondent filed RCC.No.4 of 2006 before the Rent Controller-cum-Principal Junior Civil Judge, Bhimavaram to evict the petitioner alleging that the petitioner had committed willful default in payment of rents from May, 2000 till November, 2000. He also stated that he filed O.S.No.160 of 2003 before the Principal Junior Civil Judge, Bhimavaram for recovery of rents for the very same period and also sought eviction therein, but prayer for eviction was rejected in view of the provisions under A.P. Buildings (Lease, Rent, Eviction) Control Act, 1960 but the relief of recovery of arrears of rent, was granted. He contended that in the said suit, there was a clear finding that the petitioner had committed willful default in payment of rent for the period from May, 2000 onwards and in view of the said finding, the petitioner is liable to be evicted.

3. The petitioner filed counter in the said RCC admitting the tenancy but contended that although the rent was Rs.225/- per month, the respondent started demanding rent @ Rs.300/- per month from August, 2000 and threatened to interfere with tenancy rights of the petitioner over the RC schedule property and forcibly occupy the same. He denied that he committed any willful default in payment of rent and contended that the petitioner had got issued a registered notice dt.16.11.2004 to

the respondent demanding him to cooperate for rendition of accounts between them, to which the respondent issued a reply notice on 13.12.2004 with false allegations; and that the petitioner thereafter sent an account payee demand draft for Rs.3,959/- towards rentals due to the respondent, but the respondent did not accept it and returned it. He contended that he was ready to deposit the rentals from May, 2000 after deducting the electricity charges and house repairing charges in the Court.

4. Before the Rent Controller, the respondent examined PW1 and marked Exs.A1 to A4. The petitioner examined himself as RW1 and marked Exs.B1 to B8.

5. By order dt.31.10.2011, the Court below allowed the RCC. It rejected the contention of the counsel for the petitioner that a notice under Section 106 of Transfer of Property Act, 1882 is necessary, before filing a case for eviction under the provisions of the Act. It also rejected the contention of the counsel for the petitioner that the dismissal of the suit O.S.No.160 of 2003 in so far as the relief of eviction is concerned, operates as *res judicata* and bars the grant of such relief in the proceedings under the Act. The Court below took into account the admission of the petitioner in RCC as RW1 that he had not deposited the rents from May, 2000 either in the RCC or in O.S.No.160 of 2003, and on that ground, decreed eviction.

6. Challenging the same, RCA No.1 of 2011 was filed by the petitioner before the Senior Civil Judge, Bhimavaram, who was also the Appellate Authority under the Act. By order dt.10.09.2014, the said appeal was also rejected. The appellate Court also, on appreciation of evidence, held that the petitioner committed willful default in payment of rents since he did not offer any explanation why he had not paid rents regularly to the respondents.

7. Challenging the same, this Revision is filed.

8. Heard Sri V.Raghu, Counsel for the petitioner and Sri P.S.P.Suresh Kumar, Counsel for the respondent.

9. Counsel for both sides have stated that the finding of default given in O.S.No.160 of 2003 by the Junior Civil Judge, Bhimavaram against the petitioner were confirmed in A.S.No.43 of 2006 by the Senior Civil Judge, Bhimavaram and that a Second Appeal filed against the said judgment is pending before this Court and notices had been ordered therein.

10. Be that as it may, in view of the admission made in the counter filed by the petitioner in RCC that he sent the rents for the period May, 2000 onwards by way of an account payee demand draft in 2004 and that he is ready to deposit the rents from May, 2000 before the Rent Controller and admissions in

his evidence as RW1 that he did not deposit rents from May, 2000 in any proceedings, are sufficient to hold that he committed willful default in payment of rent to the respondent. Therefore, the finding of both the Rent Controller and Appellate Authority under the Act that the petitioner has committed willful default in payment of rents has to be accepted as correct. I am also of the opinion that the Rent Controller and the Appellate Authority have rightly rejected the contention of the petitioner that notice under Section 106 of the Transfer of Property Act, 1882 was not necessary to be issued by the respondent before filing the RCC and that the judgment in O.S.No.160 of 2003, rejecting the prayer for eviction does not operate as *res judicata*, barring the filing of RCC for eviction, is correct.

11. In view of the above, I do not find any merits in this Civil Revision Petition and is accordingly dismissed. However, the petitioner is granted three (03) months time from today to vacate the subject premises subject to the petitioner filing an undertaking in the Court of Rent Controller-cum-Principal Junior Civil Judge, Bhimavaram in RCC No.4 of 2006 to that effect within three (03) weeks from today and subject to the petitioner depositing all the arrears of rent to the respondent within a period of one (01) month from today and also paying rent due for the next three months on or before 5th of each succeeding month. There shall be no order as to costs. In default of complying with any of the above conditions, the

order of eviction passed by the Rent Controller shall become enforceable and executable forthwith.

12. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

05th August, 2015.

Note: Issue CC in ten (10) days.

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