

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Civil Revision Petition No.5330 of 2011

ORDER:

This Civil Revision Petition by the unsuccessful respondent/revision petitioner under Article 227 of the Constitution of India is directed against the orders dated 14.10.2011 of the learned Rent Controller-cum-Principal Junior Civil Judge, Yellamanchili of Visakhapatnam District passed in I.A.No.341 of 2011 in RCC 4 of 2005 filed by the petitioner/respondent herein under Rule 7 (4) and (5) of A.P. Buildings (Lease, Rent & Eviction) Control Rules, 1961 requesting to receive the petition listed documents by granting leave to her.

2. I have heard the submissions of the learned counsel for the revision petitioner and the learned counsel for the respondent. I have perused the material record.

3. The parties shall hereinafter be referred to as 'the revision petitioner/tenant' ('the tenant', for brevity) and 'the respondent/landlady', ('the landlady', for brevity) for convenience and clarity.

4. To begin with, it is necessary to refer to the pleadings of the parties.

4.1 The case of the landlady in support of her aforementioned request, in brief, is this:

She had filed the above said RCC against the tenant for eviction on the grounds of wilful defaults in payments of rents and *bona fide* personal requirement. On enquiries made by her with her vendor, she had secured valuable documents executed by the father of the tenant on 6.11.1969 and upto 1991. Those documents are very much crucial to substantiate her case. By the time of filing of the Rent Control Case, she was not in possession of the above said documents. After through search and enquiry, she had secured the

said documents very recently, i.e., about two or three days prior to the filing of the petition. Hence, she could not file the documents earlier. The delay in filing the said documents is neither wilful nor wanton. The delay had occasioned for the reasons stated supra. The documents are very much necessary and will aid the Court in coming to a just conclusion on the issues involved in the case. Therefore, permission may be accorded to file the petition listed documents by granting leave.

5. The defence of the tenant, in brief, is as follows:

The allegations made in the affidavit are all false. The petition is not maintainable either on law or on facts. The petition is filed at a belated stage. PW1 was examined in chief during the year 2006 and the matter is coming up for her cross-examination. The alleged documents sought to be filed will not support the case of the landlady and the petition is silent about the source of securing the alleged documents. Hence, the petition may be dismissed.

6. On merits, and by the order impugned, the Court below had allowed the petition of the landlady and granted her leave to file the documents. Therefore, the aggrieved tenant filed this revision petition.

7. At the hearing, the learned counsel for the parties reiterated the respective pleaded cases of the parties. The learned counsel for the tenant contended as follows: 'The Court below had failed to take into consideration the contents of the counter. The landlady had failed to explain the custody of the alleged documents. The landlady is continuously avoiding appearing before the Court below for her cross examination for years together and she did not make any whisper about the alleged documents now sought to be received, in her affidavit filed in lieu of examination-in-chief. The petition is silent about the source from which the documents are secured. The documents sought to be received are totally alien to the original pleadings. The relevant provision

under the Rules mandates that the party seeking to produce the document at a later point of time shall show good cause for non production of the said documents at the earliest point of time. Hence, the petition may be dismissed.' *Per contra*, the learned counsel for the landlady while reiterating her case and supporting the orders of the Court below had submitted as follows: 'Though the order is a short order, the order contains sufficient reasons. Even otherwise, when the conclusion is correct, the order can be sustained under facts and in law and need not be set aside merely on the ground of inadequacy of reasons. PW1 is not yet cross examined and hence, the documents can be permitted to be filed. The trial Court had also permitted to amend the eviction petition to bring on record the facts related to the aforesaid documents, which show that the father of the tenant was the erstwhile tenant under the vendor of the landlady. The Court below is correct in allowing the petition.'

8. Since the facts and the contentions are already stated supra, there is no need to dilate on the said aspects.

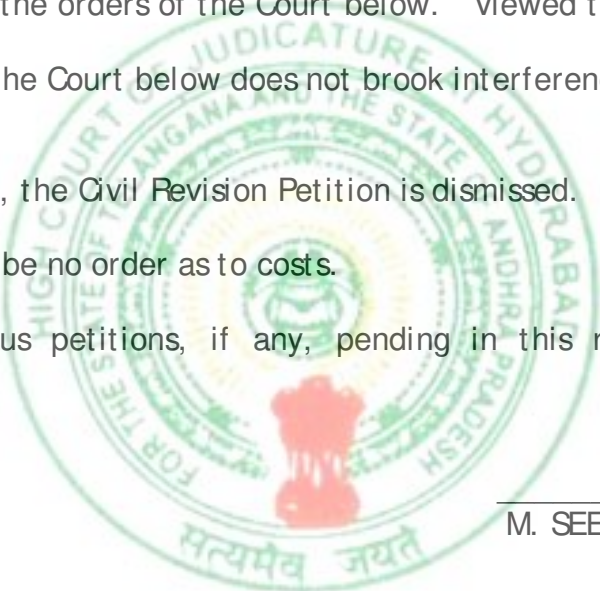
9. The landlady clearly stated in her affidavit that she had made enquiries with her vendor and that thereafter, she had secured the petition listed documents and that the said documents were not in her possession by the time the Rent Control case was filed. The trial Court had considered the said explanation as a good cause for non-production of the documents earlier and allowed the petition after recording satisfaction that a case is made out for receiving the documents. At the stage of considering an application to receive the documents, it is not necessary to examine the probative value of the documents. The admissibility of the documents will have to be considered when the documents come to be tendered in evidence through a witness and the probative value of the documents will have to be considered at a latter stage when the Court undertakes the task of appreciation of evidence and

adjudication of the issues involved in the /is. As the landlady intended to rely upon the said documents and has shown a cause to the satisfaction of the Court below, the Court below having regard to the facts and circumstances of the case, had granted leave to file the documents and received the same on file. When the Court below had exercised the discretion judiciously and had allowed the petition by recording satisfaction, this Court while exercising the revisional jurisdiction will not generally interfere with such discretion. There is neither patent illegality nor jurisdictional error calling for interference. Having regard to the facts of the case and the aforesaid reasons, this Court finds that the tenant could not make out any grounds much less valid grounds warranting interference with the orders of the Court below. Viewed thus, this Court finds that the order of the Court below does not brook interference.

10. 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.



M. SEETHARAMA MURTI, J

14th July, 2016
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