

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI
CIVIL REVISION PETITION Nos.3386 & 3322 of 2015

COMMON ORDER:

These two Civil Revision Petitions, under Article 227 of the Constitution of India, by the petitioner/respondent, are directed against the orders dated 18.06.2015 of the learned IV Additional Rent Controller – cum – XV Junior Civil Judge, Hyderabad passed in I.A.Nos.60 of 2015 and 61 of 2015 in R.C.No.183 of 2006.

2. I have heard the submissions of the learned counsel for the petitioner in both these revision petitions. None appeared for the respondents though notices are served. I have perused the material record.

3. In the aforementioned Rent Control eviction case the petitioner herein had filed two applications, viz., [i] to reopen the evidence; and [ii] to recall him (RW1) for cross examination by the other side. In support of the said requests, the case of the petitioner herein, as stated in the affidavits filed in support of the petitions, is as follows: "The Rent Control case is posted to 09.06.2015 for the cross examination of RW1-the petitioner herein. His advocate had informed him that the matter is posted for his cross-examination and that he has to appear before the learned Rent Controller's Court on 09.06.2015. However, he could not appear before the learned Rent Controller's Court on account of the death of his cousin on 01.05.2015 and as he was engaged in attending to his last rites. Therefore, the Court below noted his absence and closed the evidence on that day. Hence, the petitioner had filed the two interlocutory applications for reopening the evidence and to recall him for cross-examination by the other side. The learned Government Pleader appearing for the respondents herein reported no counter and expressed his readiness to cross examine RW1-the petitioner. However, as the petitioner was absent on 18.06.2015, both the petitions were dismissed

by passing separate orders *inter alia* holding that the petitions are intended to drag on the identified proceedings of the year 2006 and that there is no reason for reopening the evidence and recalling RW1.”

4. The said orders passed by the Court below in the said two applications are impugned in these two revision petitions.

4.1 At the hearing, the learned counsel for the petitioners, while reiterating the facts, which are stated *supra*, would submit that the petitioner herein, who was the respondent in the Rent Control case, had already filed an application for amendment of his counter to permit him to take a plea that the Court of the learned Rent Controller lacked jurisdiction to entertain the eviction proceedings and grant the relief to the opposite party; and that the said petition was also dismissed; and that a separate Civil Revision Petition in CRP No.1057 of 2015 was filed challenging the said order of dismissal; and that in the facts and circumstances of the case, the petitioner could not be present before the learned Rent Controller for his cross-examination; and that the principal contention of the petitioner/respondent is that the property is of the Government and that the proceedings under ‘The Andhra Pradesh Buildings (Lease, Rent & Eviction) Control Act, 1960’ would not apply to the present case in view of the bar contained in the said Act. He would also submit that since the main proceeding is for eviction an opportunity may be given to the petitioner by granting the reliefs keeping in view the interest of justice

5. Having regard to the submissions now made before this Court and in view of the fact, that this Court, by a separate order, had allowed today, the Civil Revision Petition in CRP No.1057 of 2015 and permitted the petitioner to amend his counter, this Court is satisfied that a case is made out for setting aside the impugned orders and to allow the applications of the petitioner.

6. Accordingly, both the revision petitions are allowed and the orders

impugned in these revisions are set aside and as a sequel, both the interlocutory applications are allowed. It is made clear that the learned Rent Controller shall permit RW1 to be cross-examined after the amendment of the counter is carried out and a fresh amended copy of the counter is filed in accordance with the procedure established by law. The trial Court shall fix a convenient date for the appearance of the RW1 for cross examination, keeping in view the directions that are given in the orders made today in CRP No.1057 of 2015. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in both these Civil Revision Petitions, shall stand closed.

M.Seetharama Murthi, J

19th February, 2016
Bvv

Note:-

Issue CC by 14th March, 2016
(B/o)
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