

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CIVIL REVISION PETITION No.5582 of 2011

ORDER:

This civil revision petition, under Article 227 of the Constitution of India, is filed by the unsuccessful petitioners assailing the orders dated 24th November, 2011 of the learned Principal Rent Controller, Secunderabad, passed in I.A.No.373 of 2011 in R.C.No.46 of 2011 filed by them under Order VIII Rule 9 of the Code of Civil Procedure, 1908, requesting for permission to file additional counter in the aforestated rent control case.

2. I have heard the submissions of Sri T.Surya Satish, learned counsel for the revision petitioners/tenants, and of Sri M.N.Narasimha Reddy, learned counsel for the respondent/landlord.

3. I have perused the material record.

4. The parties hereinafter shall be referred to as tenants/revision petitioners and respondent/landlord for convenience and clarity.

5. The facts, which are necessary to be stated as a prelude to this order, in brief, are as under:

“The landlord filed R.C.No.46 of 2011 against the tenants for fixation of fair rent; the tenants filed a counter resisting the said petition; during the pendency of the said rent control case, the tenants filed the subject application with the afore-mentioned prayer; the landlord resisted the said application by filing a counter affidavit; on merits and by the orders

impugned in this revision, the trial Court dismissed the petition. Therefore, the tenants are before this Court.”

6. The case of the tenants in support of their request for permission to file a rejoinder in addition to the counter already filed in the rent control case, in brief, is this:

“After they have filed the counter in the rent control case, a judgment was delivered, on 04.07.2011, in L.G.C.No.105 of 1990 and batch of cases, which were filed by the State of Andhra Pradesh against several landgrabbers including the father of the landlord herein. In the said judgment in the said proceedings, it was held that the land in question therein, which includes the present case schedule property, is the land of the State Government. In view of the said judgment in the batch of land grabbing cases, the petitioner is neither the owner nor the landlord of the instant case property. Therefore, in order to plead the aforesaid facts also in support of the defence of the tenants, it has become necessary to file a rejoinder to the counter already filed in the rent control case.”

7. *Per contra*, the case of the landlord is that the jural relationship is admitted in the counter affidavit already filed by the tenants and that the tenants now cannot deny the title and that they are estopped under facts and in law from denying the title of the landlord, which is admitted, and that whether the landlord is a true owner or a grabber is immaterial or irrelevant; the respondents being the tenants and the petitioner being the landlord, the tenants cannot now deny the title and raise contention contrary to the admissions made in the counter affidavit already filed.

8. I have given detailed and thoughtful consideration to the facts and submissions. I have perused the copy of the petition of the landlord in the rent control case. I have also carefully perused the counter affidavit filed on behalf of the tenants in the said case, wherein the tenants, while stating the various aspects of their defence *inter alia* contended as follows:

“Earlier, the landlord filed O.S.No.33 of 1992 for recovery of possession; the suit was decreed; an appeal in A.S.No.164 of 1996 was filed and allowed; the tenants from the beginning are contending that the learned rent controller’s Court alone has jurisdiction and the civil Court has no jurisdiction.”

Thus, in the counter affidavit filed in the rent control case, the tenants have not only admitted the jural relationship but also the jurisdiction of the Rent Controller to deal with the matter. Now, by placing reliance on a judgment in a batch of land grabbing cases, they intend to deny the title of the landlord and therefore seek permission to file a rejoinder. The learned counsel for the landlord also would submit that against the orders in the batch of land grabbing cases, a writ petition is filed and pending before this Court. The settled principle of law is – ‘once a tenant always a tenant’; and the tenant, who admitted the jural relationship, is estopped under facts and in law from denying the jural relationship, which is once admitted. The additional pleading or a rejoinder with the proposed pleading denying the jural relationship and setting at naught the admission already made in the counter affidavit of the tenants cannot be permitted to be filed under facts and in law.

9. On the above analysis, this Court is of the view that the trial Court is justified in dismissing the petition and that there is no merit in the revision.

10. In the result, the revision petition is dismissed.

There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

M. SEETHARAMA MURTI, J

23rd December 2016

ajr

