

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.1928, 1929, 1930, 1932,

1933, 1934, 1935, 1936 AND 1937 OF 2016

COMMON ORDER:

These civil revision petitions, under Section 22 of Andhra Pradesh Buildings (Lease, Rent & Eviction) Control Act, 1960 (for short, 'the Act'), are filed challenging the illegality and propriety of the Order dated 15.02.2016 in R.A.Nos.30, 39, 34, 32, 28, 38, 23, 27, 35 of 2016 passed by the Additional Chief Judge, City Small Causes Court, whereby the learned Judge confirmed the Order dated 01.10.2015 in I.A. Nos.96, 281, 279, 280, 271, 272, 269, 95, 277 of 2015 in R.C. Nos.44, 55, 52, 54, 37, 38, 32, 40, 49 of 2014 respectively passed by the Principal, Rent Controller, at Secunderabad.

02. The first respondent filed petitions under Section 4 of the Act to fix a fair rent for the premises in occupation of revision petitioners, raising various contentions. Whereas the revision petitioner filed interlocutory applications referred above under Rule 10 of Order I of CPC to implead proposed party - Church of South India Trust Association represented by Rt. Rev. Dr.G.Dyvasirvadam and Dr.P.Jonathan Dharmaraj as the second respondent to the R.C. petition filed under Section 4 of the Act, as they are proper and necessary parties in view of the dispute in O.S. No.145 of 1997 pending on the file of XII Additional Senior Civil Judge (FTC), City Civil Court at Secunderabad.

03. The first respondent filed counter contending that Church of South India Trust Association is neither proper nor necessary party to come on record in a petition filed under Section 4 of the Act, which is for fixation of fair rent and prayed for dismissal of the application, besides raising other contentions.

04. The Principal Rent Controller dismissed the interlocutory applications referred above holding that in a petition filed under Section 4 of the Act, the third party rights cannot be decided and they are not either proper or necessary parties.

05. The said Order passed by the Principal Rent Controller in I.A. Nos. 96, 281, 279, 280, 271, 272, 269, 95, 277 of 2015 in R.C. Nos.44, 55, 52, 54, 37, 38, 32, 40, 49 of 2014 respectively was challenged before the Additional Chief Judge, City Small Causes Court, Hyderabad, in R.A. Nos. 30, 39, 34, 32, 28, 38, 23, 27, 35 of 2016 under Section 20 of the Act. The learned Additional Chief Judge affirmed the Order passed by the Principal Rent Controller.

06. Aggrieved by the concurrent findings of the Principal Rent Controller and the Additional Chief Judge, City Small Causes Court, Hyderabad, the present revision petitions are filed on various grounds.

07. During hearing, Sri D. Madhava Rao, learned counsel for the revision petitioners, contended that a suit is pending in O.S. No.145 of 1997 before the XII Additional Senior Civil Judge (FTC), City Civil Court, at Secunderabad wherein the first

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respondent - St.Thomas (SPG) Tamil Church Society, Secunderabad, and the proposed respondent-Church of South India Trust Association represented by Rt. Rev. Dr.G.Dyvasirvadam and Dr.P.Jonathan Dharmaraj are parties. In the said suit, passed an interim direction was to deposit the rent to the credit of the suit. Accordingly, the revision petitioners have been depositing the rent to the credit of the suit. The said suit was filed for mandatory injunction and for recovery of possession of Church premises etc.

08. It is brought to my notice by Sri Suresh Shiv Sagar, the learned counsel for the respondents, that the suit was dismissed recording some adverse finding against St.Thomas (SPG) Tamil Church Society, Secunderabad. Aggrieved thereby, the Church of South Indian Trust Association preferred an appeal and the St.Thomas (SPG) Tamil Church Society, Secunderabad preferred cross appeal aggrieved by the adverse finding recorded by the trial court on one issue and is pending

09. Undisputedly, the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 is intended to decide the *inter se* disputes between the tenant and the landlord and not third parties and the title disputes between the third party and one of the parties to the Rent Control Petition.

10. The revision petitioners admitted jural relationship between them and the first respondent. The word "landlord" is defined under sub-Section (vi) of Section 2 of the Act and it means the owner of a building and includes a person who is receiving or is entitled to receive the rent of a building, whether

on his own account or on behalf of another person or on behalf of himself and others or as an agent, trustee, executor, administrator, receiver or guardian or who would so receive the rent or be entitled to receive the rent, if the building were let to a tenant.

11. The word “tenant” is defined under sub-Section (ix) of Section 2 of the Act is defined and it means any person by whom or on whose account rent is payable for a building and includes the surviving spouse, or any son or daughter, or a deceased tenant who had been living with the tenant in the building as a member of tenant’s family up to the death of the tenant and a person continuing in possession after the termination of the tenancy in his favour, but does not include a person placed in occupation of a building, by its tenant or a person to whom the collection of rents or fees in a public market, cart-stand or slaughter-house or of rents for shops has been framed out or leased by a local authority.

12. Therefore, in view of the specific definition of the “landlord” and the “tenant” under sub-Sections (vi) and (ix) of Section 2 of the Act, the Rent Controller is competent to decide the *inter se* disputes between the landlord and the tenant and the third party rights cannot be decided in a petition filed under Section 4 of the Act.

13. The trial court and the first appellate court specifically held that in a petition filed under Section 4 of the Act, the rights of the third parties cannot be decided, since the jurisdiction of the Rent Controller is limited and the first appellate court relying

on the Judgment of this Court in **SONI @ BHUTHULASI V. KUNDA NAGESWARA RAO**¹ wherein this Court consistently held that in Rent Control proceedings for eviction of a tenant by landlord when third party raises a dispute in relation to the question of title then, he is not entitled to get impleaded and he has to seek the relief in a regular civil suit on the question of title.

14. Therefore, the dispute between the first respondent-St.Thomas (SPG) Tamil Church Society, Secunderabad, and the proposed respondent-Church of South India Trust Association represented by Rt. Rev. Dr.G.Dyvasirvadam and Dr.P.Jonathan Dharmaraj is unconcerned to the proceedings pending before the Rent Controller, since it is only a petition filed under Section 4 of the Act, to fix a fair rent payable for the premises.

15. According to Rule 10 of Order I of CPC, the court may allow, to come on record or implead, either proper or necessary party to the proceedings. Then a question is who is a proper party and who is a necessary party. The necessary party means in whose absence the dispute pending before the Court cannot be decided finally and the proper party means in whose absence the dispute cannot be decided affectively.

16. In the present case, even in the absence of proposed respondent-Church of South India Trust Association represented by Rt. Rev. Dr.G.Dyvasirvadam and Dr.P.Jonathan Dharmaraj, a fair rent can be fixed by the Rent Controller under Section 4 of the Act. Therefore, the proposed respondent-

¹ 1991(3) ALT 200

Church of South India Trust Association represented by Rt. Rev. Dr.G.Dyvasirvadam and Dr.P.Jonathan Dharmaraj is neither proper nor necessary party to the proceedings pending before the Rent Controller for fixing of fair rent and if for any reason the proposed respondent-Church of South India Trust Association represented by Rt. Rev. Dr.G.Dyvasirvadam and Dr.P.Jonathan Dharmaraj succeeds in the appeal pending, it is entitled to enjoy the benefit of fixation of fair rent.

17. Learned counsel for the revision petitioners drawn the attention of this Court to the interim order dated 13.03.2014 in CRP No.455 of 2014 pending on the file of this Court filed by St.Thomas (SPG) Tamil Church Society, Secunderabad, against the St.Thomas (SPG) Tamil Church Society, Secunderabad and two others under Section 22 of the Act against the Order passed in R.A. No.113 of 2013, which was challenged against the Order I.A. No.179 of 2013 in R.C. No.26 of 2012, on the file of the Additional Chief Judge, City Small Causes Court, Hyderabad, and this Court granted interim stay of all further proceedings, but this Order would not enable this Court to implead the third party - Church of South India Trust Association represented by Rt. Rev. Dr.G.Dyvasirvadam and Dr.P.Jonathan Dharmaraj as a party to the petition filed under Section 4 of the Act, as it is neither proper nor necessary party to the petition pending before the Rent Controller.

18. Hence, the Principal Rent Controller and the Additional Chief Judge, City Small Causes Court, Hyderabad, rightly concluded that the Church of South India Trust

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Association represented by Rt. Rev. Dr.G.Dyvasirvadam and Dr.P.Jonathan Dharmaraj is neither proper nor necessary party to the petition filed under Section 4 of the Act and dismissed the I.A. Nos. 96, 281, 279, 280, 271, 272, 269, 95, 277 of 2015 in R.C. Nos.44, 55, 52, 54, 37, 38, 32, 40, 49 of 2014 respectively the Orders under challenge in these revisions, do not warrant interference of this Court, while exercising power under Section 22 of the Act, since I find no impropriety or illegality in the Orders under challenge.

19. Accordingly, the Orders passed by the Principal Rent Controller, in I.A. Nos. 96, 281, 279, 280, 271, 272, 269, 95, 277 of 2015 in R.C. Nos.44, 55, 52, 54, 37, 38, 32, 40, 49 of 2014 respectively affirmed by the appellate court in R.A. Nos. 30, 39, 34, 32, 28, 38, 23, 27, 35 of 2016 are hereby confirmed.

20. In the result, these revisions are dismissed. No costs.

21. Miscellaneous petitions, if any, pending in these revision petitions shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 27.08.2016
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