

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CIVIL REVISION PETITION NOs. 2130 & 2109 OF 2015

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COMMON ORDER:

These two Civil Revision Petitions, under Article 227 of the Constitution of India, by the petitioner/landlord are directed against the common order dated 2nd March, 2015 passed in I.A. Nos. 74 & 75 of 2014 in RCC No. 1 of 2012 on the file of the learned Rent Controller-cum-Principal Junior Civil Judge, Amalapuram filed for setting aside the abatement caused on account of the delay in bringing on record the proposed second respondent, who is the legal representative of the deceased sole respondent, as the second respondent in the RCC and for permission to implead the proposed second respondent as second respondent in the RCC.

2. I have heard the submissions of the learned counsel for revision petitioner/landlord ('the landlord' for brevity). Though notices are served on the proposed 2nd respondent, none appeared. I have perused the material on record.

3. The facts necessary for consideration, in brief, are as under: "The petitioner/landlord filed a petition against the sole respondent under Section 10 (2) (1) of the Andhra

Pradesh Buildings (Lease, Rent and Eviction Control) Act, 1960 praying the Court to grant a decree for eviction of the sole respondent from the petition schedule property. During the pendency of the said eviction case, the sole respondent had died on 05.03.2013. The landlord having filed a memo to that effect before the learned Rent Controller had subsequently filed the instant two applications viz., (i) for setting aside the abatement caused on account of the delay that had occasioned in bringing the legal representative of the deceased sole respondent on record; and (ii) for permission to implead the legal representative of the deceased sole respondent as the second respondent in the case. The Court below having found that the petitions are filed invoking the provisions of the Code of Civil Procedure instead of invoking the provisions under the Rent Control Law and that the petition for impleadment of the LR ought to have been filed within 30 days as contemplated under the said law, had dismissed the petitions upholding the contention of the proposed second respondent that the petitions are barred by limitation and that there are no grounds to condone the delay. Thus, the Court below had not permitted the landlord to implead the proposed second respondent as second respondent in the Rent Control Case. Therefore, the aggrieved landlord is before this Court.”

4. The learned counsel for the petitioner/landlord having placed reliance on the decision of this Court in ***Jaleel Khan v. M. Kamalamma***^[1] would first contend that the Revision under Article 227 of the Constitution of India is maintainable. He would further submit that even if a wrong provision of law is mentioned, the Court below is empowered to apply the correct provision of law and grant the relief, if the party is otherwise entitled to such relief and that when the delay is adequately explained, the Court below ought to have condoned the delay and that the length of delay is immaterial if sufficient cause is shown for condonation of the delay.

5. I have bestowed my attention to the facts and I have given earnest consideration to the submissions.

6. In view of the precedential guidance in the decision in ***Jaleel Khan v. M. Kamalamma*** (supra), this Court is satisfied that both the Revision Petitions are maintainable. As per the settled legal position when a wrong provision of law is mentioned, the Court is empowered to apply the correct provision of law and grant the relief provided the facts of case warrant granting of such a relief. In the affidavit filed in support of the petition, the delay is adequately explained and therefore, this Court is satisfied that sufficient cause is shown for setting aside the abatement caused on account of the delay that

had occasioned in bringing on record the legal representative of the deceased sole respondent. The proposed respondent is the wife of the deceased sole respondent is not in dispute. Be it noted that as per settled law, the provisions like the present provisions dealing with the impleadment of LR's are not penal in nature. They are Rules of procedure; and, substantial rights of the parties cannot be defeated by pedantic approach by observing strict adherence to the procedural aspects of law. In ***Sardar Amarjit Singh Kalra v. Pramod Gupta*** [(2003) 3 SCC 272], a Five Judge Bench of the Supreme Court held as under:

“Laws of procedure are meant to regulate effectively, assist and aid the object of doing substantial and real justice and not to foreclose even an adjudication on merits of substantial rights of citizen under personal, property and other laws. Procedure has always been viewed as the handmaid of justice and not meant to hamper the cause of justice or sanctify miscarriage of justice.”

Further, the Rules of procedure for impleadment of the LR's either under the CPC or the Rent Control Law are designed to advance justice and should be so interpreted as not to make them penal statutes for punishing erring parties. On sufficient cause being shown, the delay in bringing the legal representatives of the deceased party on record should be condoned. Procedure is meant only to facilitate the administration of justice and not to defeat the same. The dismissal of the petitions by the Court below does not constitute a sound and reasonable

exercise of its powers and, therefore, the impugned common order cannot be sustained. Accordingly, this Court finds that the impugned common order warrants interference.

7. Viewed thus, this Court finds that the ends of justice would be met if the Revision Petitions are allowed by setting aside the impugned common order.

8. In the result, both the Civil Revision Petitions are allowed and the impugned common order dated 2.3.2015 is set aside and I.A.Nos. 74 & 75 of 2014 are allowed. It is needless to mention that on carrying out of the relevant amendment as a sequel to these orders, the learned Rent Controller shall cause a notice to be served on the impleaded second respondent and dispose of the case in accordance with the procedure established by law.

There shall be no order as to costs.

Miscellaneous petitions, pending, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

DATE: 26.04.2016.
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[\[1\]](#) 2001 (5) ALT 595 (D.B)