

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION Nos.4126 AND 4161 OF 2017

COMMON ORDER:

Both these Civil Revision Petitions have been filed, under Article 227 of the Constitution of India, questioning the order dated 24.07.2017 in I.A. No.179 of 2017 in R.C. No.1 of 2013 and in I.A. No.180 of 2017 in R.C. No.2 of 2013 passed by the learned Rent Controller - cum - Principal Junior Civil Judge, Bodhan, holding that the Rent Controller has jurisdiction to decide the dispute herein by negating the ground raised by the revision petitioners that the Rent Control Court has no jurisdiction to entertain the R.C. as per Section 32-A of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960) (for short 'Act 1960') and under Section 121 of A.P. Co-operative Societies Act, 1964 (for short 'Societies Act'), and urge to set aside the order and consequently to dismiss the R.Cs.

2. Two of the tenants of the respondents viz., The Nizamabad District Cooperative Central Bank Limited, represented by its CEO, Bodhan Branch, Bodhan, Nizamabad District, filed the aforesaid interlocutory applications at the fag end of rent control proceedings when the R.Cs. were coming up for cross-examination of RW.4. The petitioners tried to invoke the provisions of Section 32-A of the Act 1960 and Section 121 of the Societies Act read with Section 151

of the Code of Civil Procedure, 1908, requesting to reject and dismiss the main cases in R.C. Nos.1 of 2013 and 2 of 2013.

3. Before the learned Rent Controller, when relevant pleas were raised by the respective parties, the following three (3) points were formulated for consideration:

“(i) Whether this court has jurisdiction to entertain the case relating to the A.P. Co-Operative Society Acts read with The A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960?

(ii) If so, the petition of main R.C. is liable to be rejected?

(iii) To what relief?”

4. The learned Rent Controller discussed the purport of the judgment passed by this Court in S.A. No.965 of 1981 between **Osmangunj Extension Co-operative Society Limited, represented by its Secretary v. Bhawarla Boha and others**. In fact, the landlord and the tenants relied on the same decision. The learned Rent Controller taking the submissions made by the learned counsel for the landlord into consideration that the factual aspect therein would show that it was a dispute between the society on one hand and the persons claiming interest through a member of the society on the other, within the meaning of Section 61(1)(b) of the Societies Act and also taking the submission into consideration that eviction proceedings initiated against the tenant by the landlord is in conformity with the law and

maintainable under the provisions of Act 1960, and also referring to the decisions relied on by the learned counsel for the landlord in S.A No.1306 of 2008 between **M/s. Sundaram Co-Operative Society v. M/s. Associated Clearing**, extracting the observations in paragraph No.21, **Satesh Jain Oswal v. Singareni Collieries Co. Ltd** [2004 (6) ALD 188], **Mahavir Cotton Co. v. Saurashtra Co-operative Spinning Mills Ltd.** [AIR 1995 Gujarat 160], **K. Khader v. Rajamma Johjn Kandathil** [AIR 1992 Kerala 15], **A. Ramachandra Naidu v. The Chittoor District Central Co-op. Stores Limited**, represented by its Managing Director, Chittoor¹, **Shyamlal v. Upbhokta Sahakari Samiti** [1982 Rajasthan 412], **Dr. Manohar Ramchandra Ssarfare v. The Konkan Co-op. Housing Society Limited** [AIR 1962 Bombay 154], and extracting the principle that ‘in a dispute between a non-member of the society and the society, the forum bar under Section 46 and 96(1)(c) does not attract and the suit filed by the plaintiffs - non-members before the Ccvil Court, the civil Court has jurisdiction, but not the Registrar’, and, thus, holding that the request made by the petitioner was not tenable and that Act 1960, would attract, dismissed both the interlocutory applications.

5. In fact, identical order was passed in I.A. No.180 of 2017 which arises from R.C. No.2 of 2013.

¹ 1993 (3) ALT 276

6. Heard Sri T. Sujan Kumar, learned counsel for the revision petitioners - tenants, and Sri K. Devender, learned counsel for the respondents - landlord, in both these revision petitions, and perused the material on record.

7. Once again, the very same legal principle has been reiterated by both the learned counsel which was discussed by the learned Rent Controller.

8. In **A. Ramachandra Naidu**¹, a learned single Judge of this Court extracted the legal principle, meaning of the words 'Court', the words used in the provision as to "business of the Society" and as to "touching the affairs of the Society" in **D.M. Co-op. Bank v. Dalichand** [AIR 1969 SC 1320], and extracted in paragraph Nos.5 and 6. For the present purpose, the observations made by the Hon'ble Supreme Court referred to in paragraph No.6 in **A. Ramachandra Naidu**¹, is relevant and it is thus:

"In this case, the society is a Co-operative Bank and ordinarily a Co-operative Bank cannot be said to be engaged in business when it lets out properties owned by it. Therefore, it seems to us that the present dispute between a tenant and a member of the Bank in a building which has subsequently been acquired by the Bank cannot be said to be a dispute touching the business of the Bank."

9. When the afore-referred ratio is applied to the fact-situation occurring in the present rent control cases, certainly, the ground urged by the petitioners - tenants in the interlocutory applications would not sustain. Hence, there is no need to further probe in to or refer to other decisions discussed by the learned Rent Controller.

10. Nothing more is required to hold that the revision petitioners herein are absolutely unconnected with the affairs of the society or business of the society. The very fact that the interlocutory applications were filed at the fag end of the proceedings before the learned Rent Controller would itself expose the oblique motive of the petitioners to further protract the litigation. Thus, there is no merit in these revisions.

11. Therefore, both these Civil Revision Petitions are dismissed at the admission stage itself. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in these revision petitions stand dismissed.

A. SHANKAR NARAYANA, J

October 20, 2017.

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