

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.597 of 2017

ORDER:

This revision petition, under Article 227 of the Constitution of India, is filed challenging the orders dated 06.01.2017 in I.A.No.182 of 2016 in R.C.No.35 of 2016 on the file of the Court of Additional Rent Controller, Secunderabad.

Heard both the counsel.

A perusal of the record reveals that the respondents herein have filed R.C.No.35 of 2016 against the petitioner on the file of the Additional Rent Controller, Secunderabad, under Sections 10(2)(i), 10(2)(v) and 10(3)(a)(iii)(b) of A.P.Buildings (Lease, Rent & Eviction) Control Act, 1960, for eviction of the petitioner from suit schedule property on different grounds. The respondents herein filed counter opposing the claim of the petitioner. The chief examination affidavit of P.W.1 was filed before the Rent Control Court. At that stage, the petitioner herein filed a petition under Order VI Rule 17 CPC seeking to amend the counter, alleging that the first respondent herein is the owner of the house bearing door No.4-5-215. The first respondent herein has not taken a specific plea in the counter that he is not the owner of the house bearing door No.4.5.215. The trial Court made an observation, which is as follows:

“Even if the amendment is allowed, the issues will not change in any manner. The real controversy also will not change.”

The finding of the Court below clearly reveals that even if the proposed amendment is allowed, it would not change the nature of the

suit. As per the averments made in the affidavit, the petitioner came to know that the first respondent is the owner of the house bearing door No.4-5-215 recently. A perusal of the record clearly reveals that the petitioner is not aware that the first respondent is the owner of the house bearing door No.4-5-215. On coming to know about the same, he filed the amendment petition immediately. Despite due diligence, he could not traced out who is the owner of the property. The petitioner has satisfied the ingredients of proviso of Order VI Rule 17 CPC. Ultimately, the Court has to see whether the proposed amendment will put an end to the litigation once for all or not. The finding of the trial Court is in favour of the petitioner, but ultimately dismissed the petition. In view of peculiar facts and circumstances of the case, I am of the considered view that it is a fit case to allow the petition.

In the result, the Civil Revision Petition is allowed setting aside the orders dated 06.01.2017 in I.A.No.182 of 2016 in R.C.No.35 of 2016 on the file of the Additional Rent Controller, Secunderabad. Consequently, I.A.No.182 of 2016 is allowed. The trial Court is hereby directed to dispose of R.C.No.35 of 2016 in accordance with law without being influenced with the observations, if any, made by this Court in this revision petition. Miscellaneous Petitions pending, if any, shall stand closed.

23rd March 2017.
Pns

T.SUNIL CHOWDARY, J

