

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION No.4828 OF 2017

ORDER:

Defendant in O.S.No.170 of 2010 on the file of the Court of the Principal Junior Civil Judge, Adoni is the petitioner in the present revision, filed under Article 227 of the Constitution of India.

2. This revision calls in question the order, dated 10.08.2017, passed by the said Court in I.A.No.1363 of 2016.

3. Heard Sri K.Sitaram, learned counsel for the petitioner, and Sri S.M.Rafee, learned counsel for the respondent, apart from perusing the material available before this Court.

4. Respondent herein instituted the said suit for eviction and damages against the petitioner herein. In the said suit, the defendant/petitioner filed I.A.No.1363 of 2016 under the provisions of Order VII Rule 11(d) read with Section 151 of the Code of Civil Procedure, 1908, praying for rejection of the plaint on the ground of lack of jurisdiction in view of the provisions of Section 32 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960. Resisting the said application, plaintiff/respondent herein filed a counter-affidavit. The learned Principal Junior Civil Judge, by way of the order impugned, dismissed the said application. Hence, the present revision petition.

5. It is contended by the learned counsel for the petitioner that the questioned order is erroneous, contrary to law and opposed to the very object of Order VII Rule 11(d) C.P.C. It is the further

submission of the learned counsel that the learned Junior Civil Judge did not properly consider the impact of Section 32 of the A.P. Buildings (Lease, Rent and Eviction) Control Act.

6. On the contrary, it is contended by the learned counsel for the plaintiff/respondent that there is no illegality nor there exists any infirmity in the impugned order and in the absence of the same, the order impugned is not amenable for any judicial review under Article 227 of the Constitution of India. It is also the submission of the learned counsel for the respondent that earlier, he filed a Rent Control Case and the same was permitted to be withdrawn with a liberty to file the present suit.

7. In the above background, now, the issue that arises for consideration of this Court is:

“Whether the order passed by the Court below is sustainable and tenable or whether the same warrants any interference of this Court under Article 227 of the Constitution of India?”

8. The sum and substance of the case of the defendant/petitioner herein is that in view of the provisions of Section 32 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, the Court of the Principal Junior Civil Judge, Adoni has no jurisdiction to entertain the suit. A perusal of the order under challenge clearly discloses that the learned Judge took into consideration the amendment carried out by virtue of the order, dated 06.07.2015, passed in I.A.No.937 of 2015 and held that the issue with regard to the jurisdiction could be decided at the time of trial. The learned Judge also took note of the issue that the

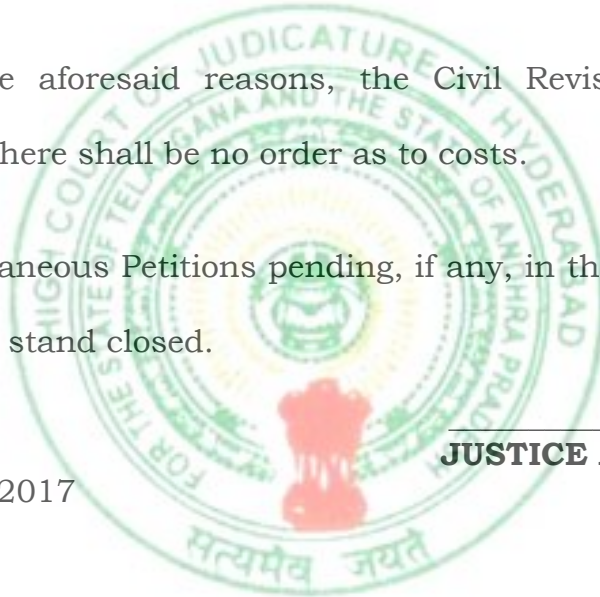
question of filing Rent Control Case does not arise in view of Amendment Act 17 of 2005. In the operative portion of the order, the learned Judge also clearly observed that the plea could be decided at the time of full fledged trial. It is also brought to the notice of this Court during the course of hearing that issue No.5 framed by the Court of the Principal Junior Civil Judge, Adoni in the present suit is with regard to the jurisdiction to entertain the suit. Therefore, this Court, in these facts and circumstances, does not find any reason to meddle with the well articulated order passed by the learned Junior Civil Judge.

9. For the aforesaid reasons, the Civil Revision Petition is dismissed. There shall be no order as to costs.

10. Miscellaneous Petitions pending, if any, in this Civil Revision Petition shall stand closed.

Date : 06.12.2017
AMD

JUSTICE A.V.SESHA SAI



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