

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.1570 of 2017

Date 23.06.2017

Between:

Arisa Krishna Mohan.

... Petitioner

AND

Mohammed Rafi.

.....Respondent



HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 1570 of 2017

ORDER:

The order, in R.C.A.No.11 of 2014 dated 27.01.2017 passed by the Rent Control Appellate Authority-cum-Principal Senior Civil Judge, Nellore, as against R.C.C.No.02 of 2013 dated 30.07.2014 passed by the Principal Junior Civil Judge-cum-Rent Controller, Nellore, is challenged before this Court.

Petitioner is the landlord, who filed Rent Control Case seeking eviction of the respondent – tenant on the grounds of acts of waste and nuisance; completion of lease period; usage of schedule shop room for purpose other than it was leased out; and alternative accommodation. By an elaborate order dated 30.07.2014, learned Rent Controller dismissed the Rent Control Case.

The Rent Control Appeal, filed in the year 2014, was disposed of by the Rent Control Appellate Authority on 27.01.2017. A perusal of the order, of the Rent Control Appellate Authority, would disclose that there are 11 paragraphs, wherein paragraphs 1 to 5 are extraction of pleadings and grounds of appeal; paragraph Nos.6, 7 and 8 are with respect to written arguments filed by the tenant; perusal of record; and points for consideration; and, at paragraphs 9 to 11, it was concluded as follows:

“With due respect to their lordships who rendered the citations referred by the appellant counsel are not applicable to the case facts and circumstances.

A perusal of the record and the trial court orders shows that it does not suffer for any illegality or irregularity either in law or on facts and accordingly the trial court order needs no interference in this appeal and accordingly Appeal grounds and appellant arguments finds no force.

Accordingly, Point No.1 is hereby decided against the appellant/landlord and in favour of respondent/tenant.

In the result, the appeal is dismissed. Consequently, the lower court order dated 30.07.2014 in R.C.C.No.2 of 2013 passed by the Rent Controller-cum-Principal Junior Civil Judge, Nellore is hereby confirmed. Each party shall bear their own costs.”

A perusal of the above order would disclose total non-application of mind by the appellate authority and inadvertence to the contentions raised and dealing with the same. This Court is constrained to observe that, not only in this matter, even in couple of appeals, which were brought before this Court, the learned Judge, in most casual and mechanical manner, by neatly extracting grounds of appeal and writing conclusions, without advertng to the grounds raised and, thereby, mechanically confirming the orders which are appealed against. In other words, there is no judicial appreciation of the officer to the case before him. The Supreme Court as well as this Court had deprecated the practice of appellate authorities passing non-speaking orders without advertng to the contentions raised as the reasons for the decision are heart of the order, and, in the absence of reasons, there is no way to come to

the conclusion that such an order has been made in accordance with law.

In the circumstances, having considered the arguments of the learned counsel for the petitioner as well as respondent, the order of the Rent Control Appellate Authority is set aside, and the matter is remitted to the Rent Control Appellate Authority-cum-Principal Senior Civil Judge, Nellore, for fresh consideration, in accordance with law, within a period of six months from the date of receipt of a copy of this order. It is made clear that the appellate authority shall consider the merits of the case uninfluenced by the observations made in the order.

The Civil Revision Petition is, accordingly, allowed.

Miscellaneous petitions pending, if any, shall stand disposed of. No order as to costs.

CHALLA KODANDA RAM,J

Date:23.06.2017
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