

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.2037 OF 2017

ORDER:

This petition is filed challenging the order dated 27.02.2017 in R.A.No.138 of 2014 on the file of Chief Judge, City Small Causes Court, Hyderabad, confirming the order dated 29.04.2014 in R.C.No.90 of 2012 on the file of I Additional Rent Controller, Hyderabad.

It is the case of the petitioner that the respondent herein filed R.C.No.90 of 2012 under Section 8(5) of A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short 'the Act') seeking permission to deposit rent into Court as the landlord refused to receive rent after compliance of necessary formalities contemplated under Section 8 of the Act. The trial Court, while allowing the said R.C. on 29.04.2014, recorded a specific finding at para 18, which reads as under:-

"For the foregoing reasons and in the light of above decision, I am of the considered opinion that there is no wilful default on the part of the petitioner in payment of rents to the landlord of the schedule premises."

Aggrieved by the said finding, R.A.No.138 of 2014 was filed before the Chief Judge, City Small Causes Court, Hyderabad. The finding of the trial Court was not disturbed by the Appellate Court in the said appeal and the appeal was dismissed.

The scope of Section 8(5) of the Act is limited and the Court at best is required to enquire whether the procedure prescribed under Section 8(5) of the Act was complied with and if the Court satisfies that the landlord refused to receive rent, despite, tendering the amount as per the procedure and if the Court

concludes that the landlord refused to receive rent without any reasonable cause and permit the tenant to deposit rent, the Rent Controller is not required to record any finding which is subject matter of eviction petition under Section 10(2) of the Act. Therefore, recording a finding under Section 10(2)(i) of the Act in a petition filed under Section 8(5) of the Act is nothing but exercising the jurisdiction beyond the limits and the trial Court is not supposed to record such finding. Therefore, the finding extracted above recorded by the trial Court and not disturbed by the Appellate Court is hereby set aside while maintaining the other part of the order passed by the Rent Controller and affirmed by the Appellate Court. Hence, the finding extracted above is expunged, as it is outside the scope of Section 8(5) of the Act.

In the result, the revision is allowed setting aside the finding recorded in para 18 of the order dated 29.04.2014 in R.C.No.90 of 2012 on the file of I Additional Rent Controller, Hyderabad.

Miscellaneous petitions, if any, pending in this petition shall stand closed.

M. SATYANARAYANA MURTHY, J

JULY 20, 2017

ssp