

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No. 73 OF 2017

ORDER:

This civil revision petition under Article 227 of the Constitution of India is filed challenging the order dated 11-02-2016 in I.A.No. 22 of 2014 in H.R.C.No. 7 of 2014 on the file of the Court of Special Mobile Judicial I Class Magistrate, Anantapuramu (for short, 'the Rent Controller').

The respondent herein filed a petition under Section 151 of the Code of Civil Procedure (for short, 'C.P.C.') to deposit arrears of monthly rent and future rent into Court during pendency of rent control proceedings alleging that the petitioner herein was not paying monthly rent regularly for four months and intentionally not paying rent even for subsequent period also.

The petitioner filed counter raising several contentions with regard to payment of rent while contending that he paid monthly rent @ Rs.25,000/- for the period March, 2014, to March, 2015, later it was enhanced to Rs.27,000/- from March, 2014, and he constructed a shed in the schedule premises by spending Rs.15,00,000/- with condition to repay the amount at the time of eviction of the building and on other grounds.

Upon hearing, the Rent Controller allowed the application directing the petitioner before this Court to deposit Rs.45,000/- towards monthly rent from September, 2014, onwards till disposal of the rent control petition.

Aggrieved by the order under challenge, the present revision is filed on various grounds mainly on the ground that the Rent Controller is having jurisdiction to entertain petitions in respect of premises for which rent payable is less than Rs.3,500/- i.e. ground No. 6 and that the Rent Controller has no jurisdiction and that therefore the order passed by the Rent Controller is illegal.

During hearing, Smt. N.Sasikala, learned counsel for the petitioner, reiterated the said ground whereas learned counsel for the respondent contended that when once Court entertains an application, the Court is bound to decide the same and I.A.No. 2 of 2016 under Order VII Rule 11 of C.P.C. is pending for disposal and the order under challenge cannot be set aside.

As seen from the case of both the petitioner and the respondent, the rent payable for the premises is more than Rs.3,500/-. According to Section 32 of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short, 'the Act'), the provisions of the Act shall not apply to any building the rent of which as on the date of commencement of the Act exceeds rupees three thousand and five hundred per month in the areas covered by the Municipal Corporation in the State and rupees two thousand per month in other areas. The schedule property is situated in Municipal Corporation area. Therefore, the upper limit is Rs.3,500/- to entertain an application under the provisions of the Act but the Rent Controller issued direction to deposit rent at Rs.45,000/- per month which is far exceeding the limit prescribed by the Act. Therefore, the Rent Controller has no jurisdiction to entertain the application under the provisions of the Act and such direction issued by the Rent Controller while exercising power under the provisions of the Act is illegal as the Rent Controller *prima facie* lacks jurisdiction over the subject matter. It is brought to the notice of this Court that I.A.No. 2 of 2016 filed under Order VII Rule 11 of C.P.C. is pending for consideration.

In view of the above, the Rent Controller is directed to decide I.A.No. 2 of 2016 within one month from the date of receipt of a copy of this order while setting aside the order under challenge before this Court.

The civil revision petition is accordingly allowed. Pending miscellaneous petitions, if any, shall stand closed in consequence. No costs.

M.SATYANARAYANA MURTHY, J.

Date: 07-07-2017.

JSK

