

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Civil Revision Petition No.2837 of 2017

ORDER:

This civil revision petition, under Section 22 of the A.P. Buildings (Lease, Rent & Eviction Control) Act, 1960, by the petitioner-respondent is directed against the order, dated 18.04.2017, of the learned Additional Chief Judge, City Small Causes Court, Hyderabad, passed in RA.No.119 of 2016.

By the said order, the learned appellate authority while allowing the said appeal filed by the respondent herein had set aside the order, dated 15.02.2016, of the learned I Additional Rent Controller, Hyderabad, passed in RC.No.302 of 2012 filed by the petitioner herein.

I have heard the submissions of Sri M.V. Suresh, learned counsel appearing for the revision petitioner-respondent, and of Sri P. Narsing Rao, learned counsel for the respondent. I have perused the material record.

The facts which lie in a narrow compass and which are discernible from the material record and the submissions made before this Court, in brief, are as follows:

The petitioner herein filed the afore-said R.C.No.302 of 2012 seeking eviction of the respondent herein on various grounds including wilful default in payment of rents. After full fledged trial, the learned Rent Controller, having found that the denial of title by the respondent herein is not *bona fide*, ordered eviction of the respondent from the petition schedule property. Aggrieved thereof, the respondent herein filed above-mentioned RA.No.119 of 2016. The learned appellate authority by the order impugned in this revision concluded that the title issue has to be resolved between the parties and that the status of the petitioner herein has also to be resolved over the petition schedule property by a civil Court and hence, the Rent Control Court has no jurisdiction whatsoever to decide the said aspects and accordingly allowed the Rent Appeal. Aggrieved thereof, the revision petitioner is before this Court.

At the stage of admission, after hearing the learned counsel for both the sides, this Court noticed that the issue of title has already been decided by a competent civil Court and that the issue that the respondent herein has no right, title and interest in the property has attained finality. In that view of the matter, the conclusions arrived at by the learned appellate authority that the title issue has yet to be resolved between the parties and that the status of the petitioner herein has also be resolved in respect of the petition schedule property by a civil Court are unsustainable under facts and in law. It is to be next noted that the learned appellate authority having concluded on the aspect of title and relegated the parties to a civil Court has not gone into any other issues involved in the Rent Appeal.

On the above analysis and for the reasons assigned, this Court finds that the request in the revision petition merits consideration and that the impugned order is liable to be set aside.

Accordingly, the Civil Revision Petition is allowed and the order, dated 18.04.2017, of the learned Additional Chief Judge, City Small Causes Court, Hyderabad, passed in RA.No.119 of 2016 is set aside and the said R.A.No.119 of 2016 is remitted to the learned Additional Chief Judge for disposal afresh and in accordance with the procedure established by law, however, subject to the following observations: 'The appellate authority shall not reopen the issue of title of the petitioner herein which has attained finality; but, shall only decide the Rent Appeal on all other issues, which arise for determination, in a just and fair manner; however, this observation shall not preclude the respondent herein from raising a contention about the proof of the Will, exhibit P9, in accordance with law. Considering the fact that the parties are interested in expeditious disposal of the Rent Appeal, the learned appellate authority is directed to dispose of the Rent Appeal as expeditiously as possible and preferably within two (02) months from the date of receipt of a copy of this order.' The learned Rent Controller is directed not to dispose of the

application for grant of a cheque filed by the respondent herein until the disposal of the Rent Appeal afresh by the appellate authority as directed in this order.

There shall be no order as to costs.

Miscellaneous petitions pending if any shall stand closed.

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JUSTICE M. SEETHARAMA MURTI

23.08.2017

Vjl

