

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION Nos.6232 & 6238 of 2017

COMMON ORDER:

In C.R.P.No.6232 of 2017, the revision petitioner is the petitioner in R.C.No.190 of 2008 on the file of I Additional Rent Controller, Hyderabad, maintained against the revision respondent for eviction of the respondent from the petition schedule property bearing municipal No.6-3-668/ 14 admeasuring 18 sq. ft (3 x 6 sq. ft) approximately situated at Punjagutta, Hyderabad. Pending disposal of the said R.C. for eviction, during trial I.A.No.83 of 2011 was filed by the petitioner to reopen the evidence of PW.1 for the purpose of marking the letter issued by the Deputy Municipal Commissioner under the R.T.I. Act. The respondent in R.C. as respondent to the interlocutory application opposed the petition. After hearing both sides, the learned I Additional Rent Controller, Hyderabad, dismissed the interlocutory application saying the Court cannot consider the petition as the document to be marked, which is the letter obtained under the R.T.I. Act, cannot be marked and thereby the petition to allow the re-open also will no way serve the purpose.

2. In C.R.P.No.6238 of 2017, the revision petitioner is the petitioner in R.C.No.190 of 2008, filed against the respondent. Pending disposal of the said R.C., I.A.No.141 of 2013 was filed by the respondent in R.C.No.190 of 2008 to demark the exhibits P.19 and P.20 and also the exhibits C.1 to C.51 saying that was got marked by playing fraud on the Court with the averments that the petitioner in R.C. by name Mrs. Sofia Hasan is allegedly representing through so-called G.P.A. Zulfequar Alam and filed the case for eviction falsely in claiming ownership of the petitioner. There was earlier an *ex parte* order of eviction and when moved the High Court, that was set aside and the S.L.P. moved before the Hon'ble Supreme Court was also ended in dismissal against it. In the course of trial, on 10.04.2013 the eviction petitioner through G.P.A. played fraud on Court and got marked the exhibits P.19 and P.20 and also the exhibits C.1 to C.51 without disclosing the order of the High Court in C.R.P.No.719 of 2011, that was disallowed, and thus C.1 to C.51 documents were already rejected for the reason that they are not properly stamped, and thereby the marking of documents again by this petition is nothing but playing fraud on Court and hence, to demark the said documents. The counter, filed by the eviction petitioner as respondent to the interlocutory application, is by denying

the averments made in the petition and questioning the maintainability and sought for dismissal of the petition saying the Court marked these documents judiciously and there is no suppression of facts. The learned I Additional Rent Controller, Hyderabad, after hearing both sides, observed that from perusal of the entire record the predecessor in office of the I Additional Rent Controller rejected to receive the documents, which are exhibits P.19 and P.20 saying those are obtained under the R.T.I. Act and not admissible. This fact not brought to the notice of the Court while marking; thereby these are to be demarked in the interest of justice. So far as exhibits C.1 to C.51 rent receipts called for from the file of III Junior Civil Judge, City Civil Court in O.S.No.1986 of 2000 as per the orders in I.A.No.115 of 2012, which is also covered by the subject matter of C.R.P.No.719 of 2012. The High Court rejected the documents, which are the copies of rent receipts and judgment as those were not originals, but the documents which are now marked are the originals summoned from the Court record; thereby the Court is not inclined to demark the exhibits C.1 to C.51, but for to say those are unstamped receipts and the stamp duty and penalty to be paid on those documents thereon. Impugning the said order, the revision is filed.

3. So far as the exhibits C.1 to C.51 are concerned, the earlier rejection for only the certified copies of original documents is not a ground to demark the marked documents, which are originals sent for from the record of the suit as rightly concluded by the lower Court subject to stamp duty to impound. So far as the demarking of exhibits P.19 and P.20 are concerned, even earlier an application filed to receive them was dismissed saying those cannot be marked for being obtained under the R.T.I. Act; that is not be all to say these documents, if otherwise admissible, cannot be admitted by its receiving. In fact, there is no *resjudicata* that applied to the orders in interlocutory applications, but for where for such an order there is an appeal remedy provided and without filing appeal or by filing appeal that was made final. Here there is rejection to receive the documents is not an appealable order and on subsequent filing, but for if at all to disclose otherwise even nowhere a bar. Further, the predecessor of I Additional Rent Controller, Hyderabad, in earlier dismissal is a misconception in case of a document obtained from the public office duly certified, even issued under the R.T.I. Act, is once a public document, no way becomes not a public document once it is complied with the requirements of Sections 74 to 77 of the Indian Evidence Act. Thus, demarking of exhibits P.19

& P.20 does not arise, but for to appreciate by treating the same as marked subject to objection, as to admissibility, relevancy and proof as laid down by the Apex Court in Bipin Shantilal Panchal v. State of Gujarat¹. Hence, the order of lower Court in I.A.No.141 of 2013 covered by C.R.P.No.6238 of 2017 is set aside to the extent of demarking exhibits P.19 & P.20 by clarifying that the said marking is to be read as marked subject to objection regarding the proof, relevancy and admissibility to ultimately decide by so noting. So far as the recalling of PW.1 to mark the letter issued by the Deputy Municipal Commissioner concerned, the dismissal order in I.A.No.83 of 2011 in R.C.No.190 of 2008 is also set aside to mark the said document, subject to objection regarding the proof, admissibility and relevancy for the self-same reasons assigned in the order supra.

Accordingly, these Civil Revisions Petitions are allowed. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

22.12.2017

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¹ AIR 2001 SC 1158