

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

and

THE HON'BLE MS. JUSTICE J. UMADEVI

Writ Petition No.13153 of 2018

Between:

Kotte Madhukar, S/o Veeraiah, aged about 42 years,
Occ: Document Writer, R/o H.no.12-157/2,
Gouthami Nagar, Mancheria, Mancheria District.

... Petitioner

Vs.

The Principal Rent Controller-cum-Principal
Junior Civil Judge, Mancheria, and another

... Respondents

For Appellant : Mr. T. Koteswara Prasad

For Respondents : None Appeared

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.13153 of 2018

ORDER: *(V. Ramasubramanian, J)*

The petitioner, who has suffered an order of eviction from the Rent Controller, has come up with the above writ petition seeking a very strange prayer namely for the issue of writ of mandamus to declare the action of the Rent Controller as well as the landlord in trying to evict him by collusion and without following due process of law, as illegal.

2. Heard Mr. T. Koteswara Prasad, learned counsel for the petitioner.

3. Though the petitioner has enclosed all the documents such as the order of eviction passed against him by the Rent Controller, the Execution Petition filed by the landlord, the docket orders passed therein and the application filed by the landlord for advancing the hearing of the Execution Petition, the affidavit in support of the writ petition is completely bereft of any material facts. In fact, we could collect all the facts from the material documents, which are truthfully enclosed, but which are not narrated in the affidavit.

4. From the material documents, it is seen that the landlord filed a petition for eviction in R.C.C.No.1 of 2015. After a hot contest, the Rent Controller, who is the 1st respondent herein,

allowed the petitioner for eviction and ordered eviction, on 02-02-2018.

5. The certified copy of the fair decretal order was issued to the petitioner on 05-03-2018. Therefore, within 30 days, the petitioner ought to have moved the Appellate Authority along with an application for stay.

6. But it appears that the petitioner moved a Civil Revision Petition directly before this Court against the order of eviction on the ground that the Rent Controller had no jurisdiction to pass the said order. We do not know what happened to the revision petition. But it is stated by the learned counsel for the petitioner that the petitioner has now decided to file a statutory appeal before the Appellate Authority. It appears that the same has already been filed.

7. In view of the above, the landlord appears to have filed an Execution Petition in E.P.No.59 of 2018. In the execution petition, the petitioner appeared and filed his objections. The Execution Petition was posted to 11-06-2018 and the Court passed the following docket order:

“Notice of J.Dr. served on person. J.Dr. called present. Call on 11-6-2018 for engage of advocate.”

8. Thereafter, the landlord filed an application in E.A.No.42 of 2018 for advancing the hearing. On that application, the Rent Controller passed an order advancing the hearing to 16-04-2018.

9. From the order passed by the Rent Controller-cum-Executing Court advancing the hearing of the Execution Petition, the petitioner has come to the conclusion that the respondents are in collusion. Therefore, impleading the Rent Controller as the 1st respondent, the petitioner has come up with the above writ petition.

10. At the outset, the petitioner ought to have filed a statutory appeal before the Appellate Authority as against the original order of eviction and sought a stay. During the pendency of such appeal, if the Executing Court was proceeding in haste, the petitioner would have had a genuine cause to complain against the manner in which the 1st respondent was functioning. But the petitioner did not do so. On the other hand, he first found a shortcut to come up with a Civil Revision Petition and then found it convenient to go back to the Appellate Authority.

11. If, within the period of limitation prescribed for filing an appeal, the judgment debtor does not even file an appeal, it is always open to the Rent Controller to pass the kind of order that he has now passed. It appears that the order advancing the hearing has been challenged in a revision separately. In other words, after taking recourse to judicial remedies against the action of the 1st respondent in advancing the hearing in the Execution Petition, the petitioner thought it fit to engage a Rent Controller himself in a litigation so that nothing proceeds further. This is

nothing but an intimidation to the Court and hence, the same cannot be entertained.

Therefore, the writ petition is dismissed as completely devoid of merits. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

Date: 16-04-2018

Ksn

J. UMA DEVI, J

