

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Civil Revision Petition No.2925 of 2018

ORDER:

This revision petition is filed, under Section 115 CPC, against the order passed by the learned Chief Judge, City Small Causes Court, Hyderabad, in I.A.No.337 of 2017 in R.A.No.60 of 2014 dated 02.04.2018.

The appeal in R.A.No.60 of 2014 was preferred against the order passed by the Rent Controller in R.C.No.145 of 2010 dated 13.12.2013. The respondent herein filed R.C.No.145 of 2010 under Section 10(2)(i) & (iv) and 10(3)(i)(a) of the A.P. Buildings (Lease, Rent and Eviction) Control Act, requesting that the petitioner herein be evicted from the petition schedule property. Among the questions, which the Rent Controller noted as arising for consideration, were whether any jural relationship existed between the petitioner and the respondent; whether the petitioner herein had committed willful default in payment of rent; and whether the respondent had a bona-fide requirement of the petition schedule property.

On the petitioner's claim of absence of jural relationship, the Rent Controller noted the admission of the petitioner herein that the respondent was their landlord; and that he had purchased the petition schedule property from the petitioner herein under an agreement of sale. The Rent Controller observed that the burden was on the petitioner herein to substantiate his case, which he failed to do with reliable proof; he had admitted, in cross-examination, that the respondent herein was his landlord, and he had obtained the petition schedule property on rent. On both the

questions whether there was default in payment of rent, and whether the landlord had bona-fide requirement, the Rent Controller held in favour of the respondent herein. The petition was allowed, and the petitioner herein was directed to vacate the petition schedule property within a period of two months from the date of the order.

Aggrieved thereby, the petitioner herein filed R.A.No.60 of 2014 on the file of the Chief Judge, City Small Causes Court, Hyderabad and, on the appeal being dismissed for default, he filed I.A.No.337 of 2017 to set aside the order passed by the Chief Judge, City Small Causes Court, Hyderabad, dismissing the appeal on 22.06.2017 for default. In his order dated 02.04.2018, the Learned Chief Judge, City Small Causes Court, Hyderabad observed that the docket proceedings in the appeal revealed that the appellant was provided several opportunities ever since 25.03.2014 to advance his arguments; inspite of the conditional orders, he had failed to appear before the Court and advance arguments on 23.02.2017; costs of Rs.200/- was imposed, and the appeal was adjourned to 07.03.2017; while he paid costs of Rs.200/- on 07.03.2017, the appellant had again sought an adjournment; as a result, the appeal was posted to 13.04.2017 on payment of costs of Rs.300/-; on 13.04.2017 costs of Rs.300/- were paid, but the learned counsel for the appellant again reported not ready; the appeal underwent several adjournments on 21.04.2017, 01.06.2017 and 09.06.2017; ultimately, on 22.06.2017, the appeal was dismissed for default and for non-prosecution; the reasons assigned by the appellant that his counsel was busy in the High Court was not a satisfactory reason

to allow the application to set aside the order dismissing the appeal for default; and no reasons were shown by the petitioner-appellant to prove that he and his counsel were prevented by sufficient cause from appearing on the date of hearing of the appeal, or that such default was occasioned due to circumstances beyond their control.

The appellate authority noted the submission of the Learned Counsel for the respondent-landlord that E.P.No.1 of 2018 was filed for execution of the order passed by the Rent Controller and, in the said E.P., the appellant had entered appearance, contesting the same; and, subsequently, he had also filed a claim petition. The Learned Chief Judge thereafter observed that the parties were working out their legal remedies in the said E.P. before the trial Court; the appellant had claimed that he was an agreement holder, and had filed O.S.No.1851 of 2010 before the VII Senior Civil Judge, City Civil Courts, Hyderabad for specific performance of the agreement of sale; and the said Suit was dismissed for default, even before the Rent Controller passed the order of eviction. The Learned Chief Judge, City Small Causes Court, Hyderabad found no sufficient grounds to allow the application, and the point was answered against the appellant.

Sri Asadullah Shareef, Learned Counsel for the petitioner, would submit that the petitioner had filed I.A.No.272 of 2017 on 13.04.2017 requesting the Court below to receive additional documents which would show that the owner of the building is the GHMC, and not the respondent herein; and the petitioner had filed W.P.No.14097 of 2017 wherein he had sought a direction to the GHMC to regularize his occupation of the premises belonging to the Municipal Corporation.

These desperate pleas, at the fag end of the proceedings before the Learned Chief Judge, City Small Causes Court, Hyderabad, are evidently made only to continue to retain illegal possession of the subject property. Having admitted before the Rent Controller that he was the tenant of the respondent herein, and having based his entire claim on an agreement of sale, allegedly executed by the respondent in his favour, for the specific performance of which he had also filed O.S.No.1851 of 2010 which was also dismissed for default, this contention of the Municipal Corporation being the owner, and a Writ Petition having been filed before this Court in the year 2017 seeking regularization, have been raised for the first time, at the fag end of the proceedings before the Learned Chief Judge, City Small Causes Court, Hyderabad, only to drag on proceedings on some flimsy ground or the other. I find no error in the order passed by the learned Chief Judge, City Small Causes Court, Hyderabad, in refusing to allow the application to set aside the order dismissing the appeal for default and for non-prosecution. As noted herein above, despite several opportunities being given to him, the petitioner failed to avail the same, even though his request for adjournment was acceded to on more than one occasion only on payment of costs. I see no reason, therefore, to entertain this revision.

Sri Asadullah Shareef, Learned Counsel for the petitioner, would request this Court to atleast grant six months time for the petitioner to voluntarily vacate the subject premises. Sri H. Sudhakara Rao, Learned Counsel for the respondent herein, would submit that, if the undertaking on behalf of the petitioner is

recorded, the respondent would not press for hearing of the E.P. for a period of six months.

Recording the undertaking of Sri Asadullah Shareef, Learned Counsel for the petitioner, that the petitioner would voluntarily, unconditionally and peacefully vacate the subject property within six months from today, the respondent is directed not to execute the order passed by the Rent Controller till then.

Subject to the aforesaid observation, the Civil Revision Petition fails and is, accordingly, dismissed. The miscellaneous petitions, if any pending, shall also stand dismissed. There shall be no order as to costs.

Date:24.08.2018.
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RAMESH RANGANATHAN, J

