

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL REVISION PETITION Nos.178, 179 & 180 of 2014

COMMON ORDER:

These three civil revision petitions are taken up for hearing at the joint request of the learned counsels for the petitioner and the respondent. All these revision petitions arise out of amendment applications that are filed in the Rent Control Case No.287 of 2013, on the file of the Principal Rent Controller-cum-12th Junior Civil Judge, City Small Causes Court, Hyderabad.

I.A.No.554 of 2013 is filed to correct the door number of the premises in the Rent Control Case as 4-7-709 instead of 4-7-709/1. The application is allowed. Questioning the same, CRP No.178 of 2014 is filed.

I.A.No.511 of 2013 is filed to amend the name of the respondent as "Eramani" instead of Eshwaramma in R.C.No.287 of 2013. The application is allowed. Questioning the same, CRP No.179 of 2014 is filed.

I.A.No.510 of 2013 is filed to amend the name of the respondent as "Eramani" instead of Eshwaramma in the application filed under Section 11 of the Rent Control Act in R.C.No.287 of 2013. The application is allowed. Questioning the same, CRP No.180 of 2014 is filed.

Both the learned counsel submitted that since common question of fact and law are involved, these three civil revision petitions should be heard and disposed of together.

Accordingly, this court has heard Sri P.Narahari Babu, learned counsel for the petitioner and Sri S.Mallarao, learned counsel for the respondent.

Learned counsel for the petitioner argues that a fundamental change is brought about in these matters, and that an altogether new cause of action is sought to be substituted. He further submits that a Rent Control Case that was filed against a specific person residing in a building having door number cannot be totally altered as it would introduce a new cause of action altogether and would cause prejudice to his client, the revision petitioner. He submits that the court below overlooked the fundamental aspects while allowing the amendment.

In reply therefor, the learned counsel for the respondent submits that there is no fundamental change in the case at all. He points out that as per the affidavits filed, the request for change of the name was made after the Bailiff who went to serve summons filed his report stating that the name is wrongly mentioned. Similarly, after the counter is filed in the Rent Control Case, the door number is sought to be changed. The trial has not commenced and the case is at the stage of pleadings only. Learned counsel further submits that if the amendment applications are perused, it will be clear that the entire body of the case, the cause of action or the relief would not be changed. Therefore, he submits that the applications are rightly allowed. In addition, the learned counsel also points out that along with Vacate Stay Petition CRP MP No.226/2014 in CRP No.178/2014 he has filed proof to show that the present petitioner accepted the costs that were imposed by the court below. Learned counsel points out that in these three matters the petitions were allowed on payment of costs. The costs, according to the learned counsel, were paid to the counsel appearing for the petitioner herein before the court below and a memo was filed into the court, and consequently, the court

below passed a docket order, dated 21.01.2014, to that effect. The learned counsel submits that once costs are paid and accepted, no revision can be filed questioning impugned order and in support of his contention, he relied on a judgment of a learned single Judge this Court in *D.Manemma v. V.Anantha Reddy*¹.

This court, after hearing the learned counsel, is of the opinion that the ratio laid down by this court in *D.Manemma v. V.Anantha Reddy* (1 supra) is squarely applicable to the facts of the present case. The impugned orders were passed on 03.01.2014, allowing the applications, subject to the condition of payment of costs of Rs.300/-, Rs.300/- and Rs.500/- respectively, payable on or before 21.01.2014. The respondent paid costs to the learned counsel for the petitioner appearing before the court below on 20.01.2014 and a docket order was passed on 21.01.2014. The handwritten memo, the typed memo and the copy of docket order are filed before this court along with the vacate stay petition in CRP MP.No.226/2014 in CRP No.178/2014. The condition imposed by the court below that the costs should be paid on or before 21.01.2014 was complied with and that is the reason why the court below passed the orders allowing the applications, as can be seen from the docket order, dated 21.01.2014. These three civil revision petitions are filed 3 days thereafter, i.e., on 24.01.2014. Therefore, it is clear that the petitioner had accepted the benefit of the impugned orders and therefore, she cannot question the same by filing these revision petitions, as per the ratio laid down by this court in *D.Manemma v. V.Anantha Reddy* (1 supra).

¹ 2013 (2) ALT 332

This court is also of the opinion that the amendment does not in any way totally or fundamentally alter the nature of the case, as argued by the learned counsel for the petitioner. The cause of action remains the same, the prayer remains the same, and the body of the petition also remains the same. The explanation given in the affidavit filed seeking amendment is that property affairs were handled by the petitioner's father, who died in 2010 leaving behind him as the sole legal heir. His mother also pre-deceased his father. Therefore, he was under the impression that Eshwaramma was residing in the premises having Door No.4-7-709/1. When he realized the correct house number, he took steps immediately to change the same and to amend the same. In the opinion of this court, the reason given is plausible and appears to be correct. The matter was at the stage of filing of the counters. No prejudice will be caused to the revision petitioner, if the amendments are allowed. Therefore, for all these reasons, this court holds that there are no merits in these revision petitions.

Accordingly, these three Civil Revision Petitions are dismissed. In the circumstances, no costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

Date: 22.11.2018
Dsr

D.V.S.S.SOMAYAJULU,J