

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NOS.3259, 3260 and 3261 of 2018

DATED:21-06-2018

Between:

Bokka Bala Veera Venkata Satyanarayana ... Petitioner

And

Dhunga Kanaka Durga ... Respondent

COUNSEL FOR THE PETITIONER: Mr. M. Radhakrishna

COUNSEL FOR THE RESPONDENT: Mr. A. Lakshminarayana



THE COURT MADE THE FOLLOWING:

COMMON ORDER:

These three civil revision petitions are filed against separate orders passed in a rent control appeal. The respondent has filed R.C.C. No.34 of 2013 under Section 10(2)(i) and 10(3)(a)(i) of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short, “the Act”), against the petitioner. By order dt.13.11.2014, the learned Rent Controller-cum-IV Additional Junior Civil Judge, Visakhapatnam, ordered eviction of the petitioner. Assailing the said order, the petitioner has filed R.C.A. No.35 of 2014. After waiting for four years, the petitioner has filed I.A No.767 of 2018 to recall R.W.1 for further chief examination, I.A. No.768 of 2018 to receive the Registered Lawyer’s Notice dt.07.10.2014 issued by the respondent and her sister to the petitioner and his wife as additional evidence, and I.A. No.769 of 2018 to receive the following documents as additional evidence.

“S. No.	Date	Description	Ex. No.
1.	25-01-2005	Hami Patram executed by father of the Respondent in my favour	R.5
2.	01-02-2005	Possessory Sale Agreement executed by father of the respondent as well as the respondent and her sister in my favour	R.6
3.	07-10-2014	Registered Lawyer’s Notice issued by the respondent and her sister Rupa to me and my wife	R.7”

All these applications were dismissed by the lower court mainly on the ground that the petitioner failed to prove that despite showing his diligence he could not file these applications before the Rent Controller.

After hearing Mr. M. Radhakrishna, learned counsel for the petitioner, and Mr. A. Lakshminarayana, learned counsel for the respondent, I do not find any merit in these civil revision petitions. As rightly observed by the lower Court though the provisions of Order XLI Rule 27 of the Code of Civil Procedure, 1908, may not apply, however, the appellate authority under the Act can follow the analogy thereof. Admittedly all the documents which the petitioner wanted to produce were available even before the disposal of the rent control case by the Rent Controller. No plausible explanation was offered by the petitioner for not filing these documents before the Rent Controller. Even if for any reason the petitioner could not file these documents before the Rent Controller, there was no reason for him for not filing those documents along with the Rent Control Appeal filed as far back as the year 2014. After waiting for four long years, the petitioner leisurely filed these applications which, in my opinion, are intended only to protract the litigation.

There is another reason for my disinclination to interfere with the orders of the lower Court. Assuming that the aforementioned documents are sought to be produced to prove the existence of the agreement of sale, that by itself would not come to the aid of the petitioner, as admittedly he has not sought specific performance of agreement of sale dt.01.02.2005. Evidently, the petitioner has not invoked the provisions of Section 53A of the Transfer of Property Act, 1882, to be protected by the doctrine of part performance. Therefore, in my opinion, filing of these documents is nothing but an exercise in futility, as it will not be able to turn the outcome of the case on its head.

For the aforementioned reasons, the civil revisions petitions are devoid of merit and they are accordingly dismissed.

As a sequel to dismissal of the civil revision petitions, I.A. No.1 of 2018 in C.R.P. No.3259 of 2018 and I.A. No.1 of 2018 in C.R.P. No.3261 of 2018 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

08-06-2018
bnr

