

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.4622 OF 2017

ORDER:

This Civil Revision Petition is filed under Section 22(1) of Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 challenging the order dated 18.08.2017 passed in I.A.No.1246 of 2016 in I.A.No.1662 of 2014 in R.C.C.No.39 of 2012 on the file of the Rent Controller-cum-Principal Junior Civil Judge, Rajamahendravaram.

2. Heard the learned counsel for both parties.
3. The facts leading to filing of the present revision are briefly as follows:

The respondent filed R.C.C.No.39 of 2012 on the file of the Rent Controller-cum-Principal Junior Civil Judge, Rajamahendravaram, against the petitioners under Section 10(2)(i) read with Section 10(3)(a) of Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act (hereinafter referred to as 'the Act') to evict the petitioners from the petition schedule property. During pendency of R.C.C., the respondent filed I.A.No.1662 of 2014 against the petitioners under Section 11(4) of the Act directing the petitioners to deposit the rent. The Rent Control Court allowed the petition on 06.02.2015. While allowing the petition, the Rent Control Court directed the petitioners to deposit the arrears of rent on or before 27.02.2015. For one reason or other, the petitioners did not deposit the rent as directed by the Rent Control Court. The Rent Control Court vide its order dated 27.02.2015 allowed

R.C.C.No.39 of 2012 directing the petitioners to vacate the petition schedule property in view of non-compliance of the order passed under Section 11(4) of the Act. While things stood thus, the petitioners filed I.A.No.1246 of 2016 to recall the orders passed in I.A.No.1662 of 2014. The Rent Control Court, after affording a reasonable opportunity to both parties, dismissed the said interlocutory application. Hence, the revision.

4. Learned counsel for the petitioners strenuously submitted that the Rent Control Court, without considering the provisions of Civil Procedure Code and Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, dismissed the petition on erroneous grounds. He further submitted that if the order of the Rent Control Court is allowed to stand, certainly it would amount to miscarriage of justice.

5. *Per contra*, learned counsel for the respondent submitted that I.A.No.1246 of 2016 is not maintainable under law.

6. The point that arises for consideration is:

“Whether there is any illegality, irregularity or impropriety in the impugned order.”

7. It is an admitted fact that the respondent filed R.C.C.No.39 of 2012 for eviction of the petitioners from the petition schedule property. The respondent filed I.A.No.1662 of 2014, under Section 11(4) of the Act, to direct the petitioners to deposit the arrears of rent and the same was allowed. For the reasons best known, the petitioners did not deposit the rent on or before 27.02.2015 as directed by the Rent Control Court.

8. At the time of arguments, learned counsel for the petitioners submitted that the Rent Control Court has not considered the memo dated 18.03.2015 filed by the petitioners.

9. As per the recitals of the memo, the petitioners deposited the rent after 27.02.2015. This clearly indicates that the petitioners intentionally and willfully not complied the order of the Rent Control Court dated 06.02.2015 by depositing the rent on or before 27.02.2015. It is needless to say that if a tenant fails to comply with the order passed under Section 11(4) of the Act, the Rent Control Court has no option except to evict the tenant from the petition schedule property. The Rent Control Court allowed R.C.C.No.39 of 2012 on 27.02.2015. For the reasons best known, till date the petitioners did not challenge the final order passed in R.C.C.No.39 of 2012. Without filing an appeal, the petitioners are not entitled to challenge the legality or otherwise of the order passed on 27.02.2015 in R.C.C.No.39 of 2012. The order passed in R.C.C.No.39 of 2012 is binding on the petitioners.

10. In order to appreciate the contention of the learned counsel for the petitioners, it is not out of place to extract hereunder Section 20(1) of Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act:

“20. Appeal:- (1) Any person aggrieved by an order passed by the Controller may, within thirty days, from the date of such order, prefer an appeal in writing to the Chief Judge, Small Causes Court in the cities of Hyderabad and Sec’bad and elsewhere to the Subordinate Judge of if there are more than one Subordinate Judge, to the Principal Subordinate Judge having original jurisdiction over the area aforesaid. In computing the said period of thirty days the time taken

to obtain a certified copy of the order appealed against shall be excluded.”

A perusal of Section 20(1) of the Act at a glance demonstrates that an appeal lies against the orders passed in any interlocutory application by the Rent Control Court.

11. As observed earlier, the Rent Control Court passed the final order in R.C.C.No.39 of 2012 on 27.02.2015. The remedy available to the petitioners is to prefer an appeal challenging the order passed in R.C.C.No.39 of 2012. For the reasons best known, the petitioners, without resorting to the remedy available to them under Section 20(1) of the Act, filed I.A.No.1246 of 2016 under Section 151 C.P.C. It is needless to say an application can be filed under Section 151 C.P.C. in the absence of a specific provision in Civil Procedure Code. Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act is a self contained Act. When the Act provides an alternative remedy of appeal, filing an application under Section 151 C.P.C. is not maintainable. Viewed from factual or legal aspects, the petition filed by the petitioners under Section 151 C.P.C. is not maintainable. The Rent Control Court considered the material available on record in right perspective and dismissed the petition. The Rent Control Court has assigned reasons much less cogent and valid reasons to its findings. I am fully endorsing with the findings recorded by the Rent Control Court. There is no illegality, irregularity or impropriety in the impugned order warranting interference of this Court. Hence, the revision is liable to be dismissed.

12. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

13. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 27.11.2018

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