

THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

CIVIL REVISION PETITION NO.4167 OF 2018

ORDER:

Mr. Ramesh Chandra Soni, the appellant-the proposed respondent No.5, is aggrieved by the order dated 26.06.2018, passed by the Additional Chief Judge, City Small Causes Court, Hyderabad whereby the learned judge has upheld the order dated 22.11.2017 passed by the I Additional Rent Controller, City Small Causes Court, Hyderabad, wherein the learned Rent Controller had dismissed the L.R. application filed by the petitioner under Section 24(1) of the A.P. Buildings (Lease, Rent & Eviction) Control Act, 1960 and had refused to take the petitioner on record as the proposed respondent No.5.

Briefly, the facts of the case are that respondent Nos.1 to 4 had filed under Section 9 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 proposed to pay the rents as there were certain disputes between respondent No.5, Mr. Satyanarayan Soni, respondent No.6, Satyanarayan Soni Seva Sansthan Charitable Trust, respondent No.7, Satyanarayana Soni Seva Sansthan and respondent No.8, Purshottamdas Soni. During the pendency of the said application on 16.02.2017, Mr. Satyanarayan Soni, respondent No.5 expired. Therefore, the petitioner, who claims to be the adopted son of Satyanarayan Soni, made an application for being impleaded as respondent No.5. By order dated 22.11.2017, the learned I Additional Rent Controller, dismissed the said application *inter alia* on the ground that although the petitioner claims to be the adopted son of Satyanarayan Soni, he has not produced any documentary proof of the fact that he is the duly adopted son of Mr. Satyanarayan Soni. Since the petitioner was aggrieved by the said order, he filed an appeal before the First Appellate Court. By the impugned order dated

26.02.2018, the learned First Appellate court dismissed his appeal. Hence this petition before this court.

Mr. Bankatlal Mandhani, the learned counsel for the petitioner, has vehemently pleaded that according to the release deed dated 26.05.1982, the petitioner is shown as the son of Satyanarayan Soni. Secondly, even according to a letter written on 17.03.2008 by Mr. Satyanarayan Soni to the Assistant Supply Officer Circle No.IV, the petitioner is shown as son. Therefore, ample documentary evidence does exist to show that the petitioner happens to be the adopted son of Satyanarayan Soni. Therefore, neither the learned Rent Controller, nor the First Appellate Court was justified in dismissing the application filed by the petitioner.

Heard the learned counsel and perused the order dated 22.11.2017 and the impugned order dated 26.06.2018.

Rule 19 of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 and Rules, 1961 is as under:

“Every application for making the legal representative or, as the case may be, the legal representatives of a deceased person party to a proceedings under the Act shall be preferred within thirty days from the date of the death of the person concerned.

Explanation:- For the purposes of this rule-

- (1) *“Legal representative” means a person who in law represents the estate of a deceased person and includes any person who inter meddles with the estate of the deceased and where a party sues, or issued in a representative character, the person on whom the estate devolves on the death of the party so suing or sued.*
- (2) *An application may be admitted after the period specified in this rule, if the applicant satisfies the Controller or appellate authority that he had sufficient cause for not making the application with such period.*
- (3) *Where a question arises as to whether any person is or is not the legal representative of a deceased person, such question shall be referred to a Civil Court for determination.”*

A bare perusal of the provision reveals that the said provision prescribes the period of limitation by which the application for being taken as the legal representative needs to be filed. But most importantly, Explanation (3) clearly states that *“where question arises as to whether any person is or not the legal representative of a deceased person, such question shall be referred to a Civil Court for determination.”*

A bare perusal of the order dated 22.11.2017 and order dated 26.06.2018 clearly reveals that, while the petitioner has claimed to be the adopted son of Satyanarayan Soni, Purushotham Soni, the respondent No.4 had filed a counter to the application filed by the petitioner. According to him there were certain depositions of Stayanraya Soni where he had clearly stated before the court of law under oath that the petitioner was not a son. Thus, clearly a dispute has arisen with regard to the legal status of the petitioner, namely whether he should be treated as the legal representative of Mr. Satyanarayan Soni or not?

Although the learned counsel for the petitioner does submit that there are other depositions, and certain documents of Satyanaayna Soni where he had admitted that the petitioner is his son, but nonetheless the impact and the consequences of two contradictory depositions of Satyanarayana Soni would have to be decided by a Civil Court.

Once a dispute has arisen with regard to the legal status of the petitioner, the learned Additional Rent Controller was justified in refusing to take the petitioner on record as the legal representative of Satyanarayan Soni. The petitioner can be on record as the legal representative only after a Civil Court has decided the issue as

required by the III Explanation of Rule 19 of the Rules. Until and unless the said finding is given by a Civil Court, obviously the learned Additional Rent Controller could not have taken the petitioner as the legal representative of Satyanarayan Soni.

Even the First Appellate Court has noticed these glaring facts in the impugned order.

For the reasons stated above, this court does not find any illegality or perversity in the impugned order. Thus, the petition is, hereby, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

Date: 28.12.2018

MRKR

(RAGHVENDRA SINGH CHAUHAN, J)

