

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION Nos.5536 and 5542 of 2011

COMMON ORDER:

Since the issue involved in these two Civil Revision Petitions is one and the same, they are being disposed of by this common order.

2. These two C.R.P.Nos.5536 and 5542 of 2011, are filed under Section 22 of the A.P. Building (Lease, Rent & Eviction) Control Act, 1960, aggrieved by the common order, dated 30.08.2011, passed in I.A.No.426 of 2010 and I.A.No.6 of 2011 in R.A.No.390 of 2010 by the Additional Chief Judge, City Small Causes Court, Hyderabad.

3 Hereinafter, the parties are referred to as they were arrayed in I.A.No.426 of 2010 in R.A.No.390 of 2010 pending before the Court below.

4 The petitioner/appellant filed I.A.No.426 of 2010 in R.A.No.390 of 2010 under Order XLI Rule 27 read with Section 151 of the Code of Civil Procedure, 1908 (for short, 'C.P.C') seeking to receive the original returnable amount receipt, dated 13.04.2005, photographs with CD of the petition schedule property and copy of the judgment and decree dated 15.04.2008 passed in O.S.No.972 of 2008 by the VII Junior Civil Judge, City Civil Court, Hyderabad, by way of additional evidence in R.A.No.390 of 2010. Thereafter, he also filed I.A.No.6 of 2011 in R.A.No.390 of 2010 under Order VI Rule 17 read with Section

151 C.P.C. seeking to amend the counter by including the matter mentioned in the petition at the end of Para 11 of the counter in R.C.No.418 of 2007. The Court below vide impugned common order dated 30.08.2011, dismissed I.A.No.426 of 2010 and partly allowed I.A.No.6 of 2011 by receiving the certified copy of judgment and decree, dated 15.04.2018 passed in O.S.No.972 of 2008 by the VII Junior Civil Judge, City Civil Court, Hyderabad, and photographs with CD of the petition schedule property.

5. Heard the learned counsel for both sides and perused the record.

6. Learned counsel for the petitioner/appellant would submit that inadvertently grave mistakes were crept in the counter and therefore, the proposed amendment was sought for. The receipt dated 13.04.2005, in question is relevant for determination of R.A.No.390 of 2010 and the Court below without there being any justifiable cause, declined to allow the applications and ultimately prayed to set aside the impugned common order and allow both the applications as prayed for.

7. On the other hand, learned counsel for the respondents would submit that the Court below, after examining the entire material on record, was justified in passing the impugned common order and there are no merits in both the revision petitions and ultimately prayed to dismiss the same.

8. In view of submissions made by both sides, the point for determination is:

“Whether the impugned common order, dated 30.08.2011, passed in I.A.No.426 of 2010 and I.A.No.6 of 2011 in R.A.No.390 of 2010 by the Additional Chief Judge, City Small Causes Court, Hyderabad, is liable to be set aside?”

9. POINT: The main contention of the revision petitioner/ appellant is that the previous Advocate on record could not properly file affidavit and also did not mention about passing of receipt, dated 13.04.2005, for Rs.25,000/-. After noticing the same, the subject applications were filed by the petitioner. The subject applications were brought in R.A.No.390 of 2010. The petitioner has adduced his evidence in the Rent Control Case, wherein there is no mention of omission of receipt, dated 13.04.2005. Introduction of said receipt and the proposed amendment sought, is putting up a new case in favour of the revision petitioner, which is not permissible under law. Further, the pleadings relating to the alleged receipt etc., is totally absent during enquiry of the Rent Control case.

10. Under these circumstances, the Court below is justified in passing the impugned common order. There is nothing to take a different view. There is neither perversity nor illegality in the order under challenge. Hence, these two Civil Revision Petitions are devoid of merit and are liable to be dismissed.

11. Accordingly, both the Civil Revision Petitions are dismissed.
No order as to costs.

As a sequel, miscellaneous petitions, if any, pending in these two civil revision petitions shall stand closed.

13th November, 2019

YVL

Dr. SHAMEEM AKTHER, J

