

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.789 of 2019

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India, by the petitioners/defendants, aggrieved by the order dated 06.12.2018 passed in I.A.No.1094 of 2018 in I.A.No.342 of 2017 in O.S.No.1417 of 2016 by the learned III Additional District Judge, Ranga Reddy District at L.B.Nagar, wherein the I.A.No.1094 of 2018 filed by the petitioners/defendants under Order 47 Rule 1 r/w Section 114 of C.P.C seeking to review the order dated 19.06.2018 passed in I.A.No.342 of 2017, was dismissed.

2. Heard Sri Rakesh Sanghi, learned counsel for the revision petitioners/defendants, Sri Shyam S.Agarwal, learned counsel for the respondent/plaintiff and perused the record.

3. Learned counsel for the revision petitioners would contend that the impugned order passed by the Court below is erroneous, unsustainable and perverse. The Court below ought to have allowed the review petition and corrected the glaring error. Vide I.A.No.342 of 2017, the revision petitioners wanted to get impleaded D.4 to D.9 i.e., the State of Telangana and its officials as parties to the suit. The Court below ought not have dismissed I.A.No.342 of 2017 vide orders dated 19.06.2018. The Court below refused to consider the fact that the Government is claiming title over the land covered by the suit schedule property. As there was patent illegality, the impugned review application was filed and the

same was dismissed, which is erroneous, and ultimately prayed to set aside the impugned order and allow the civil revision petition as prayed for.

4. On the other hand, learned counsel for the respondent would contend that the subject suit schedule property belongs to the respondent and it does not belong to the Government. In order to avoid the claim, the present review application was filed and the Court below is justified in passing the impugned order and ultimately prayed to sustain the impugned order.

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

“Whether the Civil Revision Petition can be allowed as prayed for?”

6. The material placed on record reveals that O.S.No.1417 of 2016 was filed by the respondent/plaintiff for recovery of possession of the industrial shed bearing Municipal No.1-1/1, situated at Uppal Baghayat, Uppal, Hyderabad, admeasuring 13000 sq. feet of 4000 sq. yards land and for arrears of rent and mesne profits. In the plaint, it is stated that the subject premises was let-out to the petitioners/defendants initially on a monthly rent of Rs.60,000/- and the same was enhanced from time to time. The said lease was for a period of 5 years and after expiry of the lease, the petitioners/defendants were required to vacate the said premises and deliver physical possession thereof to the plaintiff. However, the petitioners/defendants did not vacate the premises and continuing occupation of the said property as tenant holding

over and the lease of the defendants was from month to month. Some of the cheques tendered towards the payment of rents were dishonoured. After repeated requests and demands made by the respondent/plaintiff for payment of arrears of rent, the petitioners/defendants issued six cheques bearing Nos.359545, 359546, 359547, 359548, 359549 and 359550, all dated 25.05.2015 drawn on State Bank of India, Basheerbagh Road, Hyderabad. The first three cheques are for Rs.1,50,000/- each and the last three are for Rs.1,00,000/- each. The said cheques when presented were dishonoured and respondent/plaintiff initiated legal proceedings under the Negotiable Instruments Act, 1881, by filing C.C.No.499 of 2015 before the XIV Special Magistrate, Erra Manzil, Hyderabad and summons were served on the petitioners/defendants.

7. In the said suit, the petitioners/defendants filed I.A.No.342 of 2017 under Order I Rule 10 r/w Section 151 of C.P.C, seeking to implead the proposed respondents 2 to 7 therein as respondents 2 to 7 in the main suit. The Court below dismissed the said I.A vide order dated 19.06.2018. Against which, the impugned I.A.No.1094 of 2018 was filed seeking to review the order dated 19.06.2018 passed in I.A.No.342 of 2017. The said I.A.No.1094 of 2018 was also dismissed by the Court below vide order dated 06.12.2018. Hence the present revision petition.

8. In the case of *Sri Karutha Kritya Ramaeswaraswami Varu represented by its Executive Officer at Gudimoola Ramaswaram, Razole Taluk, East Godavari District v.*

*R. Ramalinga Raju and others*¹ cited by learned counsel for the revision petitioners, it was observed that an error justifying a review may either be an error of fact or error of law and the High Court while exercising its jurisdiction under Article 226 of the Constitution of India, which is not that of an appellate Court, cannot decide whether there is such an error or not. Hence this decision is not helpful to the case of revision petitioners.

9. It is apt and appropriate to refer the decision reported in *Kamlesh Verma v. Mayawati and others*², wherein the Hon'ble Apex Court held that the review proceedings are maintainable only on the following grounds:

“(1) Discovery of new and important matter or evidence which, after exercise of due diligence, was not within knowledge of petitioner or could not be produced by him;

(2) Mistake or error apparent on face of the record;

(3) Any other sufficient reason.”

10. Admittedly, there is a registered lease deed entered in between the parties to the petition. The petitioners have taken the subject property on lease from the respondent. Whether the Government has title or not, it is for the Government to work out the appropriate remedies available under law. After lapse of so many years, the petitioners stated contending that the subject premises was constructed over the land belonging to the Government. Whether the State Government is a party or not, it is for the State Government to file appropriate application and agitate

¹ AIR 1960 Andhra Pradesh 17

² (2013) 8 SCC 320

with regard to its rights. When the petitioners have conceded the ownership of the respondent under the registered lease deed, it is not open to the petitioners to come up with an application to implead the State Government and its officials as parties to the proceedings. These contentions were elaborately dealt with by the Court below by order dated 19.06.2018 passed in I.A.No.342 of 2017 in O.S.No.1417 of 2016 and the Court below declined to allow the implead petition by assigning sufficient reasons. None of the grounds mentioned in *Kamlesh Verma's case (supra)* have been fulfilled by the petitioners/defendants to entertain the impugned review application. Therefore, no illegality has been found in the impugned order to interfere with. The civil revision petition is devoid of merits and is liable to be dismissed.

11. Accordingly, the Civil Revision Petition is dismissed. Pending Miscellaneous Petitions, if any, shall stand closed. No order as to costs.

Date: 12.11.2019

Grk/scs

Dr. SHAMEEM AKTHER, J