

HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

CIVIL REVISION PETITION No.759 of 2019

ORDER :

This Civil Revision Petition is filed challenging the order dt.19.03.2019 in E.A.No.15 of 2019 in E.A.No.22 of 2011 in E.P.No.7 of 2011 in R.C.No.423 of 2007 passed by the I Additional Rent Controller, Hyderabad.

Petitioner herein is the claim petitioner.

He had filed a Claim Petition in E.A.No.22 of 2011 asserting that he is the real tenant of the R.C. schedule premises and not respondent No.3 against whom the R.C. for eviction was filed. He also alleged that the R.C. was filed collusively by respondent Nos.1 and 2 against respondent No.3 and a compromise was entered between them on 24.01.2011 and orders of eviction were obtained and under the guise of the said fraud, the petitioner is sought to be evicted from the R.C. schedule premises.

In the claim petition, the petitioner gave evidence as PW.1 and he was also cross-examined and his evidence was closed on 05.11.2015.

Thereafter, the evidence of the respondents was let in.

On 05.02.2019, the petitioner filed E.A.No.15 of 2019 to re-open his evidence and permit him to lead further evidence,

alleging that at the time of filing of the claim petition, he did not file some crucial documents to prove his case as the same were misplaced, that those documents were recently traced out and filed before the Court. He stated that he had already marked Exs.P.1 to P.230 and so, he should be permitted to lead further evidence.

This application was opposed by respondent Nos.1 and 2 stating that the petitioner's evidence was closed after his counsel represented that there was no further evidence on his behalf. It was also contended that the respondents then led their evidence and the petitioner's counsel partly cross-examined the respondents' witness as RW.1 and later he did not turn up for further cross-examination and so the Court had forfeited his right to cross-examine RW.1. It is pointed out that with a view to delay the proceedings, the petitioner, by changing the counsel, filed five applications - for recalling of PW.1, RW.1, receiving documents, re-opening the matter for the purpose of further cross-examination and marking of documents on his side, and all those applications were allowed to give fair opportunity. Respondent Nos.1 and 2 further contended that only to delay disposal of the proceedings, this application has been filed.

By order dt.19.03.2019, the Court below dismissed the said application in E.A.No.15 of 2019.

After recording the contentions of the parties, it held that the petitioner's evidence was closed on 05.11.2015 in

E.A.No.22 of 2011 and he did file five petitions to recall PW.1, RW.1, receiving of documents and re-opening the matter for further marking of documents and those applications were allowed in the interest of justice; and that again the petitioner filed this application to re-open the petitioner's side evidence to lead further evidence. It had observed that the intention of the petitioner seems to be to drag on the matter and it amounts to abuse of the process of the Court.

Assailing the said order, the petitioner has filed this Revision.

Learned counsel for the petitioner contended that grave prejudice would be caused to the petitioner, if evidence is not re-opened so that he may examine other witnesses, such as his neighbours in support of his plea that he was the original tenant.

But, in the affidavit filed in support of E.A.No.15 of 2019, a different reason has been assigned by the petitioner i.e., that re-opening of his evidence is required to enable him to file other crucial documents. Admittedly, the petitioner has already marked 230 documents and his evidence was closed long back on 05.11.2015 itself. Therefore, it appears that the intention of the petitioner is only to drag on the matter further with a view to protract execution proceedings in the R.C.

Therefore, I agree with the order dt.19.03.2019 passed by the I Additional Rent Controller, Hyderabad, that the application filed by the petitioner is not bonafide.

Accordingly, the Civil Revision Petition is dismissed, at the admission stage. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

28.03.2019.
Msr

M.S. RAMACHANDRA RAO, J



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Msr