

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.1649 OF 2019

ORDER:

This revision, under Article 227 of the Constitution of India, is filed by the petitioner aggrieved by the order dated 04.06.2019 passed in I.A.No.22 of 2019 in R.C.No.307 of 2012 by the learned IV Additional Rent Controller, Hyderabad, wherein the application filed by the revision petitioner/respondent to get para 7(a) in the counter filed by him by way of amendment, was dismissed.

2. Heard learned counsel for the revision petitioner, learned counsel for the respondent and perused the record.

3. Learned counsel for the revision petitioner would submit that there is an admission by the respondent in his evidence with regard to vacant possession of the adjacent mulgi, but the Court below did not consider the same. The amendment sought is necessary for adjudication of the issue. He relied on a decision reported in *PASUPULETI VENKATESWARLU v. THE MOTOR AND GENERAL TRADERS*¹ and ultimately prayed to set aside the impugned order and allow I.A.No.22 of 2019.

4. On the other hand, learned counsel for the respondent would contend that the Court below had examined the affidavit, the material filed in support of the counter filed by the respondent and justified in dismissing the application to amend the counter. There is no illegality or perversity in the impugned order and ultimately prayed to sustain the order.

¹ (1975)1 SCC 770

5. As seen from the record, R.C. filed by the respondent is for eviction under Sections 10(2)(i) and 10(3)(a)(iii)(b) of the Andhra Pradesh (Lease, Rent and Eviction) Control Act, 1960. The revision petitioner had filed his counter. Now *vide* I.A.No.22 of 2019, the revision petitioner wants to add para 7(a) in the counter filed by him on the ground that the adjacent Mulgi had fallen vacant. There is an affidavit filed by the person in possession of the adjoining Mulgi which demonstrates his occupation and reveals that the said Mulgi is not vacant. The Court below had also discussed about the documents filed by both sides, i.e., Ex.P1, Ex.R1 and Ex.R2. The R.C. is of the year 2012. The ground of personal necessity of the respondent-owner is required to be adjudicated after due trial of the R.C. There is no *prima facie* material to hold that the adjoining Mulgi is vacant. It appears that to drag on the proceedings, the subject I.A. was filed. The facts and circumstances of the case on hand are different from the facts of the decision relied on by the learned counsel for the revision petitioner. The Court below rightly dismissed the impugned application by assigning valid reasons. There is no illegality or perversity in the impugned order. The revision petition is devoid of merit and is liable to be dismissed.

6. In the result, the Civil Revision Petition is dismissed.

The Miscellaneous Petitions, if any, pending shall stand closed.

No costs.

Date: 12.11.2019
ssp

Dr. SHAMEEM AKTHER, J