

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P. No.239 of 2013

O R D E R:

This Revision is filed under Article 227 of Constitution of India assailing the order dated 20.11.2012 in I.A.No.257 of 2012 in R.C.No.194 of 2011 of II Additional Rent Controller, Hyderabad.

2. The petitioners herein have filed the said eviction petition against the respondents 2 and 3 on the ground of willful default in payment of rent and denial of title.

3. Pending the said R.C, the 1st respondent filed I.A.No.257 of 2012 invoking Order 1 Rule 10 CPC to implead him as 3rd respondent in RC alleging that he is the owner of RC schedule property having purchased the same under registered sale deed dated 13.11.2006 and he is in possession and enjoyment of subject property and respondents 1 and 2 are not the owners of the property.

4. This application was opposed by petitioners and they denied ownership of the RC schedule premises by the 1st respondent.

5. By order dated 20.11.2012, the II Additional Rent Controller allowed the said application. It held that the 1st respondent had sought impleadment on the ground that RC was filed collusively by petitioners against respondents 2 and

3, but having filed the counter, respondents 1 and 2 or their counsel did not appear or oppose the impleadment. Therefore, it is presumed that they have no objection to allow it and having regard to the documents filed by the 1st respondent, the application is liable to be allowed.

6. Challenging the same, this Revision is filed.

7. Counsel for the petitioners contended that the Court below erred in impleading the 1st respondent as 3rd respondent in RC on the alleged claim of title made by the 1st respondent, and that such impleadment is without jurisdiction since it is settled legal position that in a suit for eviction, the question of title of the land lord cannot be gone into because the suit would be dismissed even if the plaintiff succeeds in proving his title but fails to establish the privity of contract of tenancy. He cites decisions in ***Dr. Ranbir Singh vs Asharfi Lal***¹ and ***Tribhuvanshankar vs Amrutlal***².

8. This legal position cited by the counsel for the petitioners is not disputed by the learned counsel for the 1st respondent. He has also not cited any precedents taking a contra view.

9. In this view of the matter, I hold that the II Additional Rent Controller, Hyderabad could not have allowed the

¹ 1995 SCC (6) 580

² (2014) 2 SCC 788

implead application filed by the 1st respondent claiming independent title of the RC schedule premises in RC filed by the petitioners for eviction of respondent 2 and 3.

10. Therefore, Revision is allowed; order dated 20.11.2013 in I.A.No.257 of 2012 in R.C.No.194 of 2011 of the II Additional Rent Controller is set aside; and the said IA is dismissed. No costs.

11. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

13.02.2019

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