
(2002) 02 AP CK 0140
In the Andhra Pradesh High Court
Case No : CRP No. 4669 of 2000

B.Y. Ramulu

APPELLANT

Vs

Budhan Saheb Mosque Committee, Secunderabad and
Another

RESPONDENT

Date of Decision : 13-02-2002

Acts Referred:

Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 — Section 20

Citation : (2002) 3 ALD 377 : (2002) 6 ALT 275 : (2002) 1 APLJ 516

Hon'ble Judges : G. Rohini, J

Bench : Single Bench

Advocate : V. Sankara Rao, for the Appellant; P. Venugopal, for the Respondent

Final Decision : Dismissed

Judgement

G. Rohini, J.—This revision petition filed u/s 22 of A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 is directed against the judgment dated 18-8-2000 in RA No. 236 of 1998 on the file of the Court of the Chief Judge, City Small Causes Court, Hyderabad confirming the order of the Principal Rent Controller, Secunderabad dated 23-6-1998 in IA No. 457 of 1997 in RC No. 224 of 1997.

2. The brief facts of the case are as follows:

The 1st respondent herein filed RC No. 224 of 1997 against the 2nd respondent herein seeking eviction from the petition schedule premises. Pending the said case, the revision petitioner who is a third party to the proceedings filed IA No. 457 of 1997 under Order 1, Rule 10 of CPC to implead him as Respondent No. 2 to RC No. 224 of 1997. In the affidavit filed in support of the said application, he stated that he is the tenant in respect of the petition schedule premises paying rents to the landlord, but the landlord filed eviction petition against his father alleging that he is the tenant. The petitioner also alleged that for the last six months the landlord was not accepting any rents and purposefully filed the eviction petition against his father.

Therefore, he contends that he is a proper and necessary party and seeks to be impleaded as Respondent No. 2 to RC No. 224 of 1997.

3. The landlord filed a counter denying the averments made in the said petition and contending inter alia that there is no relationship of landlord and tenant. According to him, the father of the proposed respondent was actually inducted as a tenant in the petition schedule premises under a lease deed dated 10-1-1961 for carrying on cycle taxi business on a monthly rent of Rs. 45/-, which has been enhanced from time to time. He also stated that at no point of time the proposed respondent paid any rents in respect of petition schedule premises and he is not at all a proper and necessary part for determination of the matter in dispute.

4. The Rent Controller having considered the respective contentions of the parties, by order dated 23-6-1998 dismissed IA No. 457 of 1997 holding that the presence of the proposed party is not necessary to arrive at a just conclusion in RC No. 224 of 1997. Against the said order, the revision petitioner preferred RA No. 236 of 1998 in the Court of the City Small Causes, Hyderabad. The said appeal was also dismissed by judgment dated 18-8-2000 confirming the order of the Rent Controller and holding that the petitioner has no locus standi to file the petition. Aggrieved by the said judgment of appellate authority, the present revision petition has been filed u/s 22 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960, (hereinafter referred to as the Act).

5. Heard the learned Counsel for the petitioner as well as the learned Counsel for the respondents.

6. The learned Counsel for the petitioner submits that the orders of the Courts below are erroneous and cannot be sustained. He contends that the revision petitioner has made out a case that he is a proper and necessary party for determination of the issue in question in RC No. 224 of 1997 and in the circumstances of the case the Rent Controller ought to have allowed the petitioner to implead.

7. The learned Counsel for the respondent, Sri P. Venugopal while contending that the order under revision does not warrant interference raised an objection as to the maintainability of the revision petition. The learned Counsel placing reliance upon the judgment of this Court in *Jaleel Khan Vs. M. Kamamma*, , contends that the revision petition is not maintainable u/s 22 of the Act.

8. According to him, appeal u/s 20 of the Act does not lie against the order in IA No. 457 of 1997 in RC No. 224 of 1997 and consequently the judgment under revision passed in RA No. 236 of 1998 is a nullity and therefore the present revision petition is liable to be dismissed in limine as not maintainable.

9. For proper appreciation of the objection raised by the learned Counsel for the respondents it is necessary to examine Section 20(1) of the Act, which runs as follows:

Section 20:- "Appeal:-

(1) Any person aggrieved by an order passed by the Controller may, within thirty days, from the date of such order, prefer an appeal in writing to the Chief Judge, Small Causes Court in the cities of Hyderabad and Secunderabad and elsewhere to the Subordinate Judge, or if there are more than one Subordinate Judge to the Principal Subordinate Judge having original jurisdiction over the area aforesaid. In computing the said period of thirty days the time taken to obtain a certified copy of the order appealed against shall be excluded.

(2) x x x x (3) x x x x (4) x x x x"

10. A perusal of the said provision makes it clear that an appeal lies against an order made by the Rent Controller but it is not specified whether such an order includes an interlocutory order made by the Rent Controller. However, a Division Bench of this Court in Chaganlan (Died) Sardarilal v. N. Pershad and others 1972 (1) APLJ 343, examined the purport of Section 20(1) and held as follows:

"It may be seen that while the wording in Section 38(1) of the Delhi Rent Control Act is that an appeal shall lie against every order of the Rent Controller, the wording of Section 20 of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act is not so very specific. It only says "that any person aggrieved by the order passed by the Rent Controller". From the decision of the Supreme Court, which is binding on us, it follows that it is not every order of the Rent Controller that would become appealable, nor would it mean that only final orders passed by the Rent Controller are appealable and not interlocutory orders. The test is whether it is an order affecting any rights or liabilities of the parties. Only such orders that affect the rights and liabilities of the parties would become appealable and not all interlocutory orders, which amount only to steps taken towards the final adjudication and for assisting the parties in the prosecution of their case in the pending proceedings, thus regulating the procedure and not affecting any right or liability."

11. The Division Bench while arriving at the said conclusion relied upon a judgment of the Supreme Court in Central Bank of India Vs. Shri Gokal Chand, , wherein the Supreme Court has interpreted a similar provision under the Delhi Rent Control Act.

12. Thus, it cannot be said that all interlocutory orders passed by the Rent Controller are not appealable u/s 20 of the Act. Though, no appeal is maintainable against an interlocutory order which merely regulates that procedure and which amounts to a step taken towards final adjudication of the matter, an interlocutory order passed by the Rent Controller, which affects the rights or liabilities of the parties is certainly appealable u/s 20 of the Act. It is for the appellate authority to examine whether an interlocutory order passed by the Rent Controller affects the rights or liabilities of the parties and if it is held in affirmative, the appeal can be entertained u/s 20 of the Act and the appellant authority is competent to decide such appeal on merits.

13. This position has been accepted by the Division Bench of this Court in Jaleel

Khan's case (supra). Therefore, I am unable to agree with the objection raised by the learned Counsel for the respondents that an appeal u/s 20 is not maintainable against any interlocutory order of the Rent Controller.

14. In the instant case, the appeal u/s 20 has been preferred before the appellate authority against the order of the Rent Controller dismissing an application filed under Order 1, Rule 10 of CPC. It appears that no objection as to the maintainability of the said appeal has been raised by the respondent and the appellate authority proceeded with the appeal and dismissed the same on merits. In my considered opinion, the order passed by the Rent Controller dismissing the application under Order 1, Rule 10 of CPC cannot be said to be an order which merely regulates the procedure nor it can be said to be a mere step towards the final adjudication of the matter. The said order certainly affects the rights of the parties and therefore appealable u/s 20 of the Act. Hence, the judgment in RA No. 236 of 1998 cannot be said to be a nullity.

15. On a perusal of the impugned judgment, it could be seen that the revision petitioner wanted to come on record contending that he is the tenant in respect of the petition schedule premises and he is paying the rents. That has been denied by the landlord categorically stating that his father who is the respondent in RC No. 224 of 1997 executed the lease deed on 10-1-1961 and he has been paying the rents and he categorically stated that there is no relationship of landlord and tenant with the proposed party. Both the Courts below having considered the entire material on record passed well reasoned orders stating that the presence of the proposed party is not necessary for determination of the real matter in dispute. The order of the Rent Controller as affirmed by the appellate authority is passed in exercise of the discretion under Order 1, Rule 10 of CPC on appreciation of the material on record. I do not find any reason to interfere with the said order. The said order does not suffer from any illegality or irregularity. Accordingly, the judgment of the Chief Judge, City Small Causes Court, Hyderabad in RA No. 236 of 1998, dated 18-8-2000 is confirmed and the revision petition is dismissed. There shall be no order as to costs.