

(2001) 11 AP CK 0113
In the Andhra Pradesh High Court
Case No : C.R.P. No. 3441 of 2000

Milap Chand Jain and Others

APPELLANT

Vs

Smt. Maturi Damayanthi

RESPONDENT

Date of Decision : 23-11-2001

Acts Referred:

Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 — Section 20, 22
Constitution of India, 1950 — Article 227

Citation : (2002) 3 ALT 388

Hon'ble Judges : P.S. Narayana, J

Bench : Single Bench

Advocate : Vijaya, for Jagannatha Sarma, for the Appellant; Rajeswari, for Venugopal, for the Respondent

Final Decision : Dismissed

Judgement

P.S. Narayana, J.—The revision petitioners are the appellants in R.CA.No. 15/99 on the file of the Senior Civil Judge-cum-Rent Control Appellate Authority, Vizianagaram. The appeal was filed Under Sections 20 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 against an order of the learned Rent Controller, Vizianagaram, dated 16-12-1999, holding that Ex. A-8, dated 15-3-1989, is not a lease deed in R.C.C.NO. 24/97 on the file of the learned Rent Controller while examining P.W. 1, the petitioner in the R.C.C. - respondent in the appeal and also in the present revision.

2. Mrs. Rajeshwari representing Sri Venugopal, the learned Counsel appearing for the respondent in the C.R.P. had raised a preliminary objection relating to the maintainability of the C.R.P. Under Sections 22 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960. The learned Counsel had contended that an order admitting a document is only an interlocutory order more concerned to the procedural aspect, not affecting the rights and liabilities of the parties and as against an interlocutory order passed by the learned Rent Controller, appeal

Under Sections 20 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960, in short hereinafter referred to as "Act", is not maintainable. The learned Counsel also had contended that when the appeal itself is not maintainable as against such an interlocutory order, there is no question of maintaining a further revision Under Sections 22 of the Act. The learned Counsel places strong reliance on a decision of the Division Bench of this Court reported in *Jaleel Khan Vs. M. Kamalamma*, and also *M. Nagender Rao Vs. B.M. Lakshmiah*, .

3. Sri Vijay representing Sri M. Jagannadha Sarma, the learned Counsel representing the revision petitioners had contended that the document in question is a very crucial document and several important aspects involved in the dispute may have to be decided in view of the contents of the said document and hence, it cannot be said that this is only a procedural matter, inasmuch as, the rights and liabilities of the parties, in fact, are affected and hence, the appeal is maintainable and consequently, this revision also is maintainable as against the order made by the appellate authority. The learned Counsel also had brought to my notice that the impugned order was made by the learned Rent Controller on 16-12-1999 and since it is a crucial aspect, leaving this question also to be decided while deciding the main Rent Control proceedings may not be in the interest of justice. The learned Counsel also had submitted that in matters of this nature, the parties must have a remedy since their legal rights are affected. The learned Counsel had stressed on the proposition that wherever there is a right or infringement of right, there must be a remedy available to such a party.

4. Having heard both the Counsel on this aspect and in the light of the decision reported in *Jaleel Khan's* case (1 supra), I am of the considered opinion that the present revision Under Sections 22 of the Act is not maintainable. The next question to be decided, is whether in the facts and circumstances of the case, the petitioners can be given liberty to convert this C.R.P. into one under Article 227 of the Constitution of India after complying with the other necessary formalities. It is, no doubt, true that as against the order of the learned Rent Controller, dated 16-12-1999, instead of preferring the revision under Article 227 of the Constitution of India, the parties had invoked the jurisdiction of the appellate authority by preferring an appeal Under Sections 20 of the Act. But, however, in the facts and circumstances of the case, since this Court is taking a view that the appeal itself is a misconceived remedy pursued by the parties, inasmuch as, the question involved in the matter is relating to the admissibility of a document which is being seriously disputed by the revision petitioners, in the facts and circumstances of the case, in my considered opinion, the revision petitioners can be permitted to convert this proceeding into one under Article 227 of the Constitution of India. It is made clear that the respondents also can raise all the other objections after the revision petitioners converting this proceeding into one under Article 227 of the Constitution of India. By giving this liberty, the C.R.P. is disposed of. In the facts and circumstances of the case, no order as to costs.