
(2006) 11 AP CK 0023
In the Andhra Pradesh High Court
Case No : CRP No. 2639 of 2004

Puvvada Sanyasi Lingam and Others	APPELLANT
Vs	
Puvvada Peda Satyanarayana Murthy and Another	RESPONDENT

Date of Decision : 24-11-2006

Acts Referred:

Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 — Section 2, 9, 9(1), 9(3), 9(5)

Citation : (2007) 2 ALD 134

Hon'ble Judges : V. Eswaraiah, J

Bench : Single Bench

Advocate : E.V. Bhagiratha Rao, for the Appellant; D. Sudhakar Rao, for the Respondent

Final Decision : Dismissed

Judgement

V. Eswaraiah, J.—This civil revision petition is directed against the judgment dated 18-3-2004 passed by the learned Senior Civil Judge-cum-Rent Control Appellate Authority, Vizianagaram, in R.C.A. No. 12 of 1999, wherein and whereby the order dated 28-7-1999 passed by the Rent Controller-cum-Principal Junior Civil Judge, Vizianagaram in R.C.C. No. 2 of 1995 is set aside.

2. The brief facts of the case necessary for disposal of the civil revision petition are as follows:

The petitioners herein and the first respondent are brothers. The petitioners herein claim right, title and interest over the petition schedule property in R.C.C. No. 2 of 1995 on the file of the Rent Controller-cum-Principal Junior Civil Judge, Vizianagaram. R.C.C. No.2 of 1995 was filed by the second respondent herein u/s 9 of Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (for brevity "the Act") seeking to permit him to deposit the rents of the petition schedule property at the rate of Rs. 1,000/- per month from May 1994 into the Court, as there are rival claims to receive the rents between the petitioners and the first respondent herein. The Rent Controller allowed the said R.C.C. by order,

dated 28-7-1999. Aggrieved by the same, the first respondent herein filed R.C.A. No. 12 of 1999 on the file of the Senior Civil Judge-cum-Rent Control Appellate Authority, Vizianagaram, who by the judgment dated 18-3-2004 allowed the appeal setting aside the order of the Rent Controller and directed the second respondent herein to continue to pay the rents of the petition schedule property to the first respondent herein directly under acknowledgment and if the first respondent herein fails to give receipts for any such payment, the second respondent herein should follow the proper procedure to approach the Rent Controller seeking permission to deposit the rents. Aggrieved by the same, respondents 2 to 4 in the R.C.C. filed this civil revision petition.

3. Learned Counsel for the petitioners herein contended that the ownership of the first respondent herein over the petition schedule property has not been established and that the contention of the first respondent that in the so-called partition agreement said to have been entered in 1980, the petition schedule property fell to his share, has not been proved. Therefore, the first respondent is not entitled to receive the rents. The Rent Controller had rightly allowed the R.C.C. filed by the second respondent herein permitting him to deposit the rents into the Court. He further contended that in the event, the title of the first respondent is not established and if he misappropriates the rents, it would be difficult for the petitioners herein to recover the same from him.

4. Learned Counsel for the petitioners further contended that as per Section 9(5) of the Act, if any order is passed by the Rent Controller permitting to deposit the rents into the Court, the person who is declared by a competent Court to be entitled to receive the rents alone, is entitled to withdraw the same. But, in the present case, no competent authority has decided the right or title of the respective parties over the petition schedule property and as such, the first respondent cannot be permitted to receive the rents.

5. In the backdrop of the instant case, the points that fall for consideration are:

1. Whether there was any bona fide doubt or dispute as regards the entitlement of the first respondent herein to receive the rents of the petition schedule property?

2. Whether the first respondent is the landlord of the petition schedule property within the meaning of Section - 2 (vi) of the Act?

6. u/s 9(1) of the Act, where the address of the landlord or his authorized agent is not known to the tenant, he may deposit the rent lawfully payable to the landlord in respect of the building before such authority and in such manner as may be prescribed, and continue to deposit any rent which may subsequently become due in respect of the building before the same authority and in the same manner until the address of the landlord or his authorized agent becomes known to the tenant.

7. u/s 9(3) of the Act, where any bona fide doubt or dispute arises as to the

person who is entitled to receive the rent for any building, the tenant may deposit such rent before the Rent Controller and continue to deposit the same until the doubt is removed or the dispute is settled by the decision of a competent Court or by a settlement between the parties. By passing an order u/s 9(3) of the Act, if the bona fide doubt is removed or dispute is settled, then the Rent Controller can permit the authorized person to withdraw the same.

8. In the instant case, it is admitted by both the parties that the first respondent herein inducted the second respondent as a tenant of the petition schedule property in the year 1990 and the second respondent has been paying the rents to the first respondent till May, 1994. When there were rival claims to receive the rents, the second respondent herein-tenant approached the Rent Controller, only after the first respondent herein obtained a decree for recovery of the rental amount due and payable by the second respondent herein.

9. In view of the admitted facts, I am of the opinion that there was no doubt or any dispute with regard to the entitlement of the first respondent to receive the rents.

10. May be, the title of the first respondent herein over the petition schedule property is not established, but as per the definition of landlord u/s 2(vi) of the Act, not only the owner of the building but also any person who is entitled to receive the rent of the building whether of his own account or on behalf of another person or on behalf of himself or others or as an agent, trustee, executor, administrator, receiver or guardian or who would so receive the rent or be entitled to receive the amount, if the building were let to a tenant.

11. In the instant case, there is a relationship of landlord and tenant in between respondents 1 and 2. If that be so, there is no doubt or suspicion with regard to the entitlement of the first respondent to receive the rents.

12. Having regard to the aforesaid facts and circumstances of the case, the lower appellate Court has rightly allowed the appeal filed by the first respondent herein.

13. For the foregoing reasons, I do not find any irregularity, infirmity or impropriety in the impugned judgment warranting interference by this Court.

14. The civil revision petition is devoid of any merit and is, accordingly, dismissed. There shall be no order as to costs.