
(2013) 10 MP CK 0082
In the Madhya Pradesh High Court
Case No : Civil Revision No. 141 of 2013

Vinod Babu

APPELLANT

Vs

Smt. Savitri Bai

RESPONDENT

Date of Decision : 23-10-2013

Acts Referred:

Citation : (2013) 10 MP CK 0082

Hon'ble Judges : Rohit Arya, J

Bench : Single Bench

Advocate : S.K. Shrivastava, for the Appellant;

Final Decision : Dismissed

Judgement

Rohit Arya, J.—Heard on admission. Instant civil revision is directed against the interlocutory order dated 4/9/2013 passed by Additional District Judge, Sironj in Civil Appeal No. 1341/2013 (an appeal u/s 31 of M.P. Accommodation Control Act) whereby, an application filed u/s 32 of M.P. Public Trust Act on 2/4/2012 has been dismissed.

2. The facts necessary for disposal of this civil revision are that the Rent Controlling Authority on an application u/s 10 for fixation of standard rent passed an order dated 22/4/2010. This order was passed on an application of the landlord Roopdas, Pujari, Mandir Shri Lakshman Ji, Lateri Road, Sironj against present applicant Vinod Babu S/o Shri Rambharose for fixation of rent in respect of two shops situated in Gandhi Bazar, Sironj on the premise that the aforesaid two shops are of the ownership of the temple which have been rented out to forefathers of applicant for last 22 years and applicant is not paying the rent. The rent at the relevant time was stated to be 400/- per month. Hence, the prayer was made for fixation of the standard rent.

3. Applicant refuted the plaint averments in toto.

4. The Rent Controlling Authority has framed the following issues:--

5. The Rent Controlling Authority recorded the finding that the original plaintiff is the Manager and Pujari and also controlling the temple Shri Lakshman Ji situated in Gandhi Bazar, Sironj including the suit shops also. The suit shops are also situated in the premises of the temple. The court below has recorded a finding that there is a landlord-tenant relationship between the parties. The father and thereafter his son i.e. the applicant is occupying the suit shops and doing the business of clothe as tenants. Hence, the standard rent has been fixed. Against the said order, an appeal has been preferred u/s 31 of the M.P. Accommodation Control Act by the applicant.

6. As such the appeal pending consideration is related to rent fixation done by the Rent Controlling Authority. During the pendency of the appeal, an application dated 2/4/2012 (Annexure P/17) has been filed purportedly u/s 32 of the M.P. Public Trust Act to say that since the suit property is of unregistered trust, therefore, the suit for fixation of standard rent was not maintainable and therefore, the order passed therein be set aside in view of the bar created by Section 32 of the M.P. Public Trust Act. Section 32 of the M.P. Public Trust Act reads as under:--

32. Bar to hear or decide suits.--(1) No suit to enforce a right on behalf of a public trust which has not been registered under this Act shall be heard or decided in any Court.

(2) The provisions of sub-section (1) shall apply to claim or set off or other proceedings to enforce a right on behalf of such public trust.

7. The application was replied and the first appellate Court has passed the impugned order.

8. Order impugned is perused.

9. It is a fact that neither any plea or objection nor any evidence was led before the Rent Controlling Authority as regard bar of jurisdiction taking shelter of the Section 32 of the M.P. Public Trust Act. The appellant submitted to the jurisdiction of the Rent Controlling Authority and contested the matter of fixation of Standard Rent on merits. Even in the appeal memo, no such issue has been raised, pending consideration. By moving a skeleton application on 2/4/2012 without any supporting documents in support of averments made therein, a prayer has been made for setting aside the order passed by the Rent Controlling Authority. Such course of action appears to be peculiar in nature.

10. Objection as regard jurisdiction of the Court on the assertion by applicant that non-applicant is not a registered trust, firstly ought to have been raised before the same Court and secondly since issue of jurisdiction essentially involves question of facts to be determined on the basis of evidence. There is nothing on record to support such assertion. From the facts and circumstances of the case, it appears that applicant/tenant is continuing in the suit shops and godown since the time of his forefathers. He has been irregular in payment of

rent and in arrears of rent, purportedly for the reason that standard rent has not been fixed. On the intervention of the High Court through judicial order, the proceedings were initiated before the Rent Controlling Authority in the year 1993 and for more than 17 years, standard rent for the suit premises was not fixed. Proceedings could attain finality as late as in the year 2010 vide order dated 22/04/2010 passed by Rent Controlling Authority. The said order is under challenge before the appellate forum and is pending consideration.

11. In view of the aforesaid facts and circumstances, it appears, application has been filed by the applicant/appellant only to avoid decision on merits of the appeal and fixation of standard rent. Such novel methods as attempted to by the applicant cannot be permitted. In view of the aforesaid, no irregularity or infirmity is found in the order passed by the Court below. The revision sans merits is hereby dismissed.