

Muddukrishna Vs. Rudranamma

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Court : Karnataka

Decided On : Nov-27-1995

Reported in : ILR1996KAR569

Judge : M.B. Vishwanath, J.

Acts : Karnataka Rent Control Act, 1961 - Sections 21; [Code of Civil Procedure \(CPC\) , 1908](#) - Order 1, Rule 10

Appeal No. : HRRP Nos. 1375, 1376, 1163 and 1164 of 1995

Appellant : Muddukrishna

Respondent : Rudranamma

Advocate for Def. : K.V. Vasanth, Adv. for R-1

Advocate for Pet/Ap. : Rangavittalachar, Adv. for Sandhya Jamadagni, Adv. and ;K.R. Meena Kumari, HCGP

Disposition : Petition rejected

Judgement :

Vishwanath, J.

1. Heard both Counsel. Admitted.

2. These four Revision Petitions arise out of the common order passed on 30.5.1995 in HRC.2562/1991 on the file of the XII Additional Small Causes Judge, Bangalore, dismissing I.A.V under Order I Rule 10 CPC filed by the Muzrai Department (Government) and another application filed under Order I Rule 10 CPC by one Muddukrishna.

3. The facts necessary are:

The landlady Rudranamma filed two eviction petitions - one eviction petition HRC.2561/91 filed against the alleged tenant Venkatesh and another eviction petition HRC.2562/91 against two alleged tenants Kodandapani and Byla Hanumaiah.

H.R.C. 2561/91 has been filed on the ground under Section 21(1)(a) of the Karnataka Rent Control Act and H.R.C.2562/91 has been filed on the ground under Section 21(1)(a) and (t) (arrears of rent and sub-letting) of the K.R.C. Act.

It is not disputed that in both Cases, the alleged tenants have denied the right of the alleged landlady to claim arrears of rent. They have denied that Rudranamma is the landlady.

In both these eviction petitions separate applications under Order 1 Rule 10 CPC have been filed by one Muddukrishna and also by Muzrai Department (Government).

Muddukrishna has prayed in t.A.4 that he should be impleaded as a party to the eviction proceedings since he is a tenant under the Muzrai Department. The Muzrai Department (Government) has also filed I.A.5 under Order 1 Rule 10 CPC praying that it should be permitted to come on record as respondent since the alleged landlady Rudranamma is claiming title in the petition schedule property falsely.

The learned HRC Judge rejected both the applications I.A.4 and I.A.5. These orders have been challenged by the said Muddukrishna and the Muzrai Department (Government) in these Revision Petitions.

4. As I have already stated, the alleged tenants already on record who have been shown as tenants by the landlady Rudranamma have denied that Rudranamma is the landlady. They have denied the right of Rudranammato collect rents.

5. It is argued by the learned Counsel for the Government that the Government has executed Lease Deed in favour of Muddukrishna and so they are necessary parties. The xerox copy of the Lease Deed shows that the property leased by the Muzrai Department in favour of Muddukrishna relates to property bearing No. 166 but the schedule property shown in the eviction petition relates to property No. 266. It is argued by the learned Counsel for the Revision-petitioner that this is a mistake. It would be expecting too much on the Revision side to correct this mistake and grant relief to the said Muddukrishna and Muzrai Department. This initial difficulty is there staring in the face of the Revision-petitioners.

It is further argued by the learned Counsel for the Revision-petitioners that the property in the Lease Deed, though shown as No. 166, is the same property shown in the eviction petition. It is open to the Revision-petitioners to urge this point in the suit filed by Muddukrishna.

6. This Court has laid down the Law in *DEVARAJA PUVANI v. ANNI SHETTY*, 1974(2) KLJ Sh.N. Item No. 192 Page 54. In that case the plaintiff based a suit on the rent bond said to have been executed by the defendant. The suit was filed for recovery of rent. The defendant denied execution of the rent bond and pleaded that he had taken the land on rent from one 'S'. Defendant applied to implead 'S' as a party. It has been laid down by this Court that the suit being a simple suit for ejectment based on the rent bond, 'S' in whom defendant set-up title was not a necessary party. In the instant case also, it should be remembered that the alleged tenants already on record have set-up title in the Muzrai Department.

7. In ILR 1984(2) KAR 889, *Sri Vardhaman Stanvakasi Jain Sravak Singh v. Chandrakumar and Anr.*, it has been laid down by this Court, while interpreting Order 1 Rule 10 CPC that, questions involved in the suit means questions concerning parties to suit and not of any third party. So a third party against whom no relief is sought and no order made, is neither a necessary party nor a proper party.

8. The learned Counsel for the Revision-petitioner relied on the Decision of Delhi High Court reported in : AIR1983 Delhi432 , Devi Dayal Dixit v. Rashtriya Electrical Engineering Co. wherein it has been laid down that in a suit for eviction, a party who had been in occupation of the premises for quite sometime before the institution of the suit claimed to be the original tenant and not the person proceeded against, he would have a right to be impleaded as a party-defendant.

No doubt this authority appears to support the Revision-petitioners. In view of the fact that this Court has laid down the law which is applicable to the facts of the present case it is not necessary to distinguish the Delhi High Court authority.

9. It is submitted by the learned Counsel for the respondents-landlords that Muddukrishna, one of the Revision-petitioners, to whom it is alleged, the Muzrai Department has leased the petition schedule premises, has already filed a suit O.S.4796/92 against Rudranamma and another. It is open to Muddukrishna to agitate his rights in the suit filed by Rudrannamma against him. He cannot be permitted to come on record as respondent in the present eviction petition and complicate the simple eviction petition.

It bears repetition. The tenants whom Rudranamma has impleaded in the eviction petition have taken up a stand that landlady has no right to collect the rents. This safeguards the interests of the Muzrai Department and Muddukrishna. It is open to the alleged tenants already on record to show that Rudranamma is not entitled to receive rent or collect rent.

10. The learned Small Causes Judge in para 17 of his judgment has referred to the suit filed by the landlady Rudranamma in O.S.6652/91 on the file of the City Civil Judge, Bangalore, wherein she has obtained a decree for permanent injunction against the Muzrai Department, Commissioner of Religious and Charitable Endowments and Muzrai Assistant.

11. For the aforesaid reasons I am of the opinion that the common impugned order passed by the learned Small Causes Judge is neither perverse nor unreasonable. Accordingly the Revision Petitions are rejected.

It is abundantly made clear that the observations made in this Revision Petition are without prejudice to the rights of all the parties.

12. At this stage the learned Counsel for the Revision petitioners submits that the order passed should be without prejudice to his rights under Order 21 C.P.C. If such an observation is made by this Court, it would go beyond the scope of this Revision Petition. If the Revision petitioners are entitled to any rights under Order 21 they are entitled to urge them.

13. With these observations the Revision Petitions are hereby rejected.

The observations made in this Order shall not prejudice the rights of the Muzrai Department in so far as the identity of the property is concerned.

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