

**In Re: Salem**

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**Court :** Andhra Pradesh

**Decided On :** Sep-09-1963

**Reported in :** AIR1964AP271

**Judge :** Jaganmohan Reddy and ;Sharfuddin Ahmed, JJ.

**Acts :** Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 - Sections 15, 20, 22 and 22(1)

**Appeal No. :** Civil Revn. Petn. No. of 1963 and S.R. No. 10853 of 1963

**Appellant :** In Re: Salem

**Advocate for Pet/Ap. :** Vishnu Rao, Adv.

**Judgement :**

**Jaganmohan Reddy, J.**

1. This matter has been directed to be placed before a Bench by our learned brother, Satyanarayana Raju, J., having regard to the conflict of two decisions, one of Munikanniah, J, and another of Basi Reddy, J.

2. The learned advocate for the petitioner cites a decision of Munikanniah, J. in Mahboob Bi v. Alvala Lachmiah, 1962-2 Andh WR 148, In support of his contention that notwithstanding Section 20 of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960, hereinafter referred to as 'the Act', a

revision can be filed to the High Court. There is a decision of our learned brother Basi Reddy, J. in S. R. No. 33312 of .1962 (AP) in which a question had arisen whether a revision was maintainable under Section 22 of the Act. in that case the petitioner had filed a petition for eviction of his tenant. That petition was dismissed by the Rent 'Controller, Kakinada, and without filing an appeal under Sub-section (4) of Section 20 of the Act, he filed a revision directly to the High Court. ' It was pointed by our learned brother that the petitioner could not invoke the revisional power conferred on the High Court by Section 22 (19 of the Act- because the impugned order was not one passed by the Controller in execution under Section 15, nor was it an order passed by the appellate authority on appeal under Section 20 of the Act. Munikannah, J., on the other hand, was dealing with a case where the refusal of the tenant to receive notice of the proceedings sent by registered post had given rise to the order setting the tenant ex parte and after setting him ex parte, the Rent Controller held that the petitioner owned the House and that the tenant had committed wilful default in payment of the rent and that inasmuch as he also found that the house was required for the use of the landlord, he ordered eviction. The tenant filed an appeal in the City Civil Court where a preliminary objection was taken by the respondent-landlord that the appeal was barred by limitation as It was filed six days after the time allowed for filing the appeal. The appellant alleged that he had no knowledge of the proceedings before the Rent Con-trailer and that he was never served with the notice thereof. Now it is clear that under Section 20, an appeal has 'to be filed within thirty days from the date of tile order and not from the date of the knowledge. The Chief Judge, City Small Causes Court, applied the provisions of Section 18 of the Limitation Act and consequently he allowed the appeal and remanded the case to the Rent Controller for passing a fresh order after taking evidence of tha parties. The learned Judge Munikannah, J. held that under Section 20 (3) of the Act, the appellate authority was not competent to remand a case to the Rent Controller and direct A fresh trial of the case.

He also held that if the principles of natural justice and fair play have been found to be violated, Interference by the High Court would certainly be within the province of the revisional powers conferred by Section 22 of the Act. He also held that Section 18 of the Limitation Act is not applicable.

3. We are not here concerned with the validity of that judgment because the facts in this case clearly do not induce us to think that there is no remedy open to the petitioner under Section 20. The petition is one against an order refusing to stay the proceedings in the Rent Controller pending the civil suit. Now, Section 20 (1) of the Act provides:

'(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) On such appeal being preferred, the appellate authority may order stay of further proceedings in the matter pending decision on the appeal.

(3) The appellate authority shall send for the records of the case from the Controller and after giving the parties an opportunity of being heard and, if necessary, after making such further inquiry as he thinks fit either personally or through the Controller, shall decide the appeal.

Explanation: The appellate authority may, while confirming the order of eviction passed by the Controller, grant an extension of time to the tenant for putting the landlord in possession of the building.

(4) The decision of the appellate authority and subject to such decision, an order of the Controller shall be final and shall not be liable to be called in question in any Court of law, except as provided in Section 22.'

4. This section, on a plain reading of it, does not confine the remedy of an appeal only to final orders of eviction or refusal to evict. An appeal can be filed by any person, who is aggrieved by an order passed by the Controller. An order passed by the Controller can be an interlocutory order, which may affect one or the other of the parties, and the party so aggrieved can certainly go in appeal. The revisional

powers given under Section 22 of the Act confer power on the High Court on an application of an aggrieved party to call for and examine the records relating to any order passed or proceeding taken under the Act by the Controller in execution under Section 15 or by the appellate authority on appeal under Section 20, for the purpose of satisfying itself as to the legality, regularity or propriety of such order or proceedings, and may pass such order in reference thereto as it thinks fit. At any rate, since we are of the view that the impugned order can be appealed against, the revisional powers cannot be availed of, before such an appeal is filed. While agreeing, with respect, with the judgment of Basi Reddy, J. in S. R. No. 33312 of 1962, dated 30th November, 1962 (AP), we hold that this revision is not maintainable. Let the papers be returned to the petitioner.

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