

**HON'BLE SRI JUSTICE K.S. APPA RAO**

**CIVIL REVISION PETITION No.3036 OF 2001**

**Date:18-11-2011**

**Between:**

Nandigama Lakshamma.

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Petitioner/  
Respondent No.8/  
Respondent No.8.

And

1. C. Narahari.

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Respondent/  
Appellant/  
Petitioner

2. Sm. Kalavathy Ramchand and  
6 others.

- - -

Respondents/  
Respondents/  
Respondents.

**This Court made the following :**

**HON'BLE SRI JUSTICE K.S. APPA RAO**

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**ORDER:**

Aggrieved by the Judgement dated 12-04-2001 passed in Rent Appeal No.365 of 1997 by the Chief Judge, City Small Causes Court, Hyderabad (for short, 'the learned Chief Judge'), reversing the order dated 26-06-1997, made in R.C. No.819 of 1993 by the II Additional Rent Controller, City Civil Court, Hyderabad, (For short, 'the Additional Rent Controller') the present Civil Revision Petition is filed.

2. The Appellant herein is the Respondent No.8 in R.C. No.819 of 1993 and R.A. No.365 of 1997. R.A. No.365 of 1997 was filed against the order dated 26-06-1997 made in R.C. No.819 of 1993 on the file of II Additional Rent Controller, Hyderabad. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the lower Court.

3. The Petitioner in R.C. No.819 of 1993 and R.A. No.365 of 1997 filed petition under Section 9 (3) of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (For short, 'the Act') for permission to deposit the rents into Court in respect of the premises bearing House No.3-6-142/2, Himayat Nagar, Hyderabad.

4. After elaborate enquiry, the learned Additional Rent Controller directed the Petitioner to pay monthly rent accumulated in respect of the petition schedule premises within one month from the date of order and shall continue to pay the rents on or before 10<sup>th</sup> day of every succeeding month, regularly, at the rate of Rs.275/- p.m. to Smt. N. Laxmamma, wife of late N. Shivaiah, 8<sup>th</sup> Respondent herein and the Petitioner is also directed to withdraw the rental amounts deposited by him into Court and pay the same to Smt. N. Laxmamma.

5. Being aggrieved, the Petitioner i.e. the tenant preferred R.A. No.365 of 1997 and after due enquiry, the learned Chief Judge, City Small Causes Court, Hyderabad, set aside the order of the trial Court and permitted the Petitioner to deposit the rents into Court. Being aggrieved, the 8<sup>th</sup> Respondent filed the present Civil Revision Petition.

4. The leaned counsel appearing for the Revision Petitioner mainly urged that the learned Chief Judge, went wrong in setting aside the order of the learned Additional Rent Controller, though, there is sufficient evidence to show that the Revision Petitioner is the owner of the property and sought for setting aside the order of the learned Chief Judge. He also fairly conceded that though the Revision Petitioner has not filed the sale deed under which her husband purchased the property and if he is given an opportunity he would adduce evidence and file the suit documents in the trial Court.

5. Now the point for consideration is whether the order of the learned Chief Judge, dated 12-04-2001, is sustainable?

7. One C. Narahari, admitted as tenant in the suit schedule property filed petition under Order 9 (3) of the Act seeking for permission to deposit the rents into Court in respect of the suit schedule property alleging that he

cannot make out the ownership of the suit schedule property alleging that the landlady has refused to receive the rents on the ground that she sold the property to third parties much less Respondent Nos. 3, 4 and 8. After due enquiry, the trial Court allowed the petition and directed the Petitioner to pay rents to the 8<sup>th</sup> Respondent i.e. the wife of 7<sup>th</sup> Respondent in whose favour the title is executed in respect of the suit schedule property.

8. A perusal of the trial Court record, it is clear that the 8<sup>th</sup> respondent did not file the sale deed under which her husband purchased the property. In the absence of the said sale deed, it cannot be said that the 7<sup>th</sup> respondent is the owner of the suit schedule property leaving alone the ocular evidence adduced before the trial Court. Unless the 8<sup>th</sup> respondent establishes that she is the absolute owner of the suit schedule property, it cannot be said that she is entitled to receive the rents payable by the Petitioner. The learned Chief Judge, correctly observed the same while setting aside the order of the trial Court.

9. However, for better adjudication of the matter an opportunity may be given to the Revision Petitioner to adduce evidence to prove ownership and title of the suit schedule property by producing sufficient evidence before the lower Court. Till then, the Petitioner is permitted to deposit the rents into Court as agreed. With this modification, the matter is remanded back to the II Additional Rent Controller, Hyderabad for better adjudication of the matter about the rights of the parties. However, the II Additional Rent Controller, Hyderabad is directed to dispose of the matter, as expeditiously as possible after issuing notices by giving opportunity to both the parties.

Accordingly, the Civil Revision Petition is disposed of. There shall be no order as to costs.

**K.S. APPA RAO, J**

Date: 18-11-2011.

Dsh.

**HON'BLE SRI JUSTICE K.S. APPA RAO**

**CIVIL REVISION PETITION No.3036 OF 2001**

November, 18, 2011

**DSH.**