



HIGH COURT OF ANDHRA PRADESH
WEDNESDAY ,THE NINETEENTH DAY OF JUNE
TWO THOUSAND AND NINETEEN

PRESENT

THE HONOURABLE SMT JUSTICE T. RAJANI
CIVIL REVISION PETITION NO: 7245 OF 2018

Between:

1. DEVATHI RAMACHANDRA RAO S/o late Satyanarayana Murthy,
aged about 66 years, R/o D.No.22-7-19,
Opp. city Cable Office, Kothapet, Tenali.

...PETITIONER(S)

AND:

1. KELLA DHANALAKSHMI W/o late Ramulu,
aged about 59 years, R/o D.No.18-4-69,
Telephone Exchange Bazar, Markandeya Street,
Salipet, Tenali-522 201.

...RESPONDENTS

Counsel for the Petitioner(s): V S R ANJANEYALU

Counsel for the Respondents:

The Court made the following: ORDER



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THE HON'BLE SMT JUSTICE T. RAJANI

CIVIL REVISION PETITION NO: 7245 OF 2018

Petition under Article 227 of the Constitution of India, filed against the order dated 31/10/2018 made in unnumbered O.S. of 2018 (CFR No. 6346 of 2018) by the Principal Junior Civil Judge, Tenali.

Between:

Devathi Ramachandra Rao, S/o late Satyanarayana Murthy, aged about 66 years, R/o D.No.22-7-19, Opp. City Cable Office, Kothapet, Tenali.

...Petitioner/Plaintiff

AND

Kella Dhanalakshmi, W/o. late Ramulu, aged about 59 years, R/o D.No.18-4-69, Telephone Exchange Bazar, Markandeya Street, Salipet, Tenali-522 201.

...Respondent/Defendant

Counsel for the Petitioner: Sri V.S.R. Anjaneyalu

Counsel for the Respondent: None Appeared

The Court made the following: ORDER



SMT. JUSTICE T. RAJANI

CIVIL REVISION PETITION No. 7245 OF 2018ORDER:

1. This Civil Revision Petition is filed assailing the order dated 31.10.2018 passed by the Court of Principal Junior Civil Judge, Tenali returning the plaint to be presented before proper forum.

2. Heard learned Counsel for the petitioner. None appeared for the respondent despite service of notice.

3. The suit is filed for eviction. The lower Court by considering that the Andhra Pradesh Residential and Non-Residential Premises Tenancy Act, 2017 came into force with effect from 28.03.2018, returned the plaint stating that there is express bar to entertain the suit in view of Section 40(1) of the said Act.

Section 40(1) of the said Act reads as under:

“ 40(1) Save as otherwise provided in this Act, no civil court shall entertain any suit or proceeding so far as it relates to the provisions of this Act.”

Further Section 32 of the said Act reads as follows:

“ Notwithstanding anything contained in any other law for the time being in force, in the areas to which this Act extends, only the Rent Court and no civil Court shall have jurisdiction, to hear and decide the applications relating to disputes between landlord and tenant and matters connected with and Rent ancillary thereto covered under this Act.

Provided that the Rent Court shall, in deciding such applications relating to tenancies and premises, give due regard to the provisions of the Transfer of Property Act, 1882, the Indian Contract Act, 1872 or any other substantive law applicable to such matter in the same manner, in which such law would have been applied had the dispute between brought before a Civil Court by way of suit”

4. The aforesaid provision clearly shows that there is express bar to entertain any suit between landlord and tenant and hence, the lower Court returned the suit.

The petitioner is faced with a difficult situation in view of the aforesaid provision which specifies that the disputes of this nature have to be filed before the competent tribunal constituted under the Act, as no tribunal is constituted as



yet. Section 30 of the Act lays down that the State Government may by notification, constitute such number of Rent Courts in as many urban areas as may be deemed necessary by it. Till now, no tribunal is constituted as specified in the Act. Learned Counsel for the petitioner for the purpose guiding this Court has submitted the ruling of the erstwhile High Court of Andhra Pradesh, at Hyderabad in Writ Petition No. 9681 of 2008, dated 11.11.2008, wherein this Court in the similar situation held as follows by relying on the judgment of the Honourable Apex Court.

“It is not uncommon that the Tribunal or agencies are constituted to adjudicate the disputes arising under the relevant enactments. While in some cases, the arrangement is made at the initial stage itself, in the other cases, they are made by way of amendment. Wherever the adjudicatory procedure or process is amended, the known principle is that till the agency contemplated under the law becomes functional, the existing arrangement must continue. In fact, that is the purport of the relevant provisions of the General Clauses Act, 1897. In COMMISSIONER OF INCOME TAX v DHADI SAHU [1994 (TLS) SCC 10653], the Hon’ble Supreme Court held that till the adjudicatory machinery contemplated under an enactment is brought into existence, the arrangement that has been functional prior to it would continue. Similar view was taken in the earlier judgments also.”

In view of the above, the Civil Revision Petition is allowed and the order of the lower Court dated 31.10.2018 is set aside. The lower Court shall entertain the suit as no tribunal as specified in the Act is established.

6. Consequently, miscellaneous petitions pending consideration if any in the Civil Revision Petition shall stand closed. No order as to costs.

**SD/- K. VENKAIAH
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To

**One Fair Copy to the Hon’ble Smt. Justice T. Rajani (For Her
Lorship’s kind perusal)**

1. The Principal Junior Civil Judge, Tenali, Guntur District (Along with case records if any)
2. One CC to Sri V.S.R. Anjaneyalu, Advocate [OPUC]
3. 9 LR Copies
4. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.
5. The Secretary, Andhra Pradesh Advocates Association, High Court Buildings at Amaravathi.
6. Two CD Copies.



2019:APHC:15824

18/7/2019
OC

RS 4250

HIGH COURT

DATED:19/06/2019

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ORDER

CRP.No.7245 of 2018

ALLOWING THE CIVIL REVISION PETITION

$\frac{16}{T2}$ 11/7/2019