

(2004) 12 AP CK 0030
In the Andhra Pradesh High Court
Case No : CRP No. 2577 of 2001

Kamisetty Pedda Venkata Subbamma
and Another

APPELLANT

Vs

Chinna Kummagandla Venkataiah

RESPONDENT

Date of Decision : 21-12-2004

Acts Referred:

Citation : (2005) 2 ALD 73 : (2005) 2 ALT 462

Hon'ble Judges : S.R.K. Prasad, J

Bench : Single Bench

Advocate : S.V. Bhatt, , C. Jayasree Sarathy,

Final Decision : Allowed

Judgement

S.R.K. Prasad, J.

The landlords have preferred this revision against the judgment rendered in RCA No. 1 of 1996 by the Rent Controller Appellate authority-cum-Senior Civil Judge, Cuddapah confirming the order of the Principal District Munsif-cum-Rent Controller, Cuddapah dismissing the application filed for eviction holding that the rent agreement produced before the Court is not genuine one.

2. The judgment of the Appellate Court is impugned on two grounds, viz., the Rent Controller Appellate Authority has not considered the written arguments and he has not compared the signatures on the vakalat, counter and the disputed document, where the respondent has denied his signature. The landlords Counsel has also sought for sending back the matter for reconsideration in the light of the written arguments presented before the Court. Reliance is also placed on a decision reported in G. Jay Rao Vs. State of A.P.,.

3. The learned Senior Counsel appearing on behalf of the respondent has contended that as the findings given by both the Courts, are concurrent, there is no need to interfere with the findings of fact and while contending that the Court has got ample power to compare the signatures, both the Courts found that the document in question is a forged one, and he sought for upholding of the order of

the Appellate Court.

4. Adverting to the same, I have perused the record.

The contention of the revision petitioners that the revision petitioners presented the written arguments, appears to be correct. The Rent Control Appellate Court has failed to consider the written arguments presented on behalf of landlords before the Court. This Court has observed at Paragraph 6 in the decision referred above which is as follows:

"I have perused the written arguments. None of the contentions raised in the written arguments are considered. In fact, the decisions of the Supreme Court, this Court and Patna High Court have been cited in the written arguments. The same does not find place in the judgment of the Appellate Tribunal. The lower Appellate Court shall keep in mind that written arguments are submitted not for fancy sake. It is a right conferred by the statute to a party to submit the written arguments which are meant for consideration and adjudication. No Court shall ignore the written arguments and refuse to consider the same. If it were to do so, they are liable for action by the Superior Courts. This is nothing short of judicial dishonesty. A Judge is not supposed to exhibit such dishonesty. A Judge is supposed to exhibit extreme patience and give long rope and hear arguments and then pronounce his decision after adjudicating the matter. I find that this is a classic case where the Judge refused to consider the written arguments. He has not considered the decisions cited before him. In such cases, the judgment should not be upheld. It deserves to be set aside since no party can be allowed to leave the Court with dissatisfaction for non-consideration of his arguments. If such things were to happen, the litigant public certainly loses confidence in the judicial systems. I am of the considered view that the Appellate Court's judgment shall not stand for judicial scrutiny before this Court for the learned Judge's failure to consider the written arguments and adjudicate the matter in the light of the written arguments which lead to miscarriage of justice."

The written arguments were not considered. One should remember that the Courts existed for rendering justice in accordance with law, but not in accordance with whims and fancies. In case the material placed by the Counsel, is ignored, the litigant public who approaches the Courts with fond hope of getting justice, will lose confidence in the judicial system. Judges must keep in mind that it is their duty to go through the written arguments, advert to them and refer them in the course of the judgment by giving answers. In the present case, the written arguments are not adverted to. When the Judge does not mind through the written arguments and advert to the same in the judgment, it cannot be said that fair hearing has been given by the Judge. In such cases, the revisional authority has to correct the mistake committed by the Appellate Authority and the things have to be put in order. Two options are open for this Court viz., (1) the revisional Court has to take the burden of rehearing the entire matter and arrive at the conclusion and render the justice (2) the revisional Court has to send back the matter to the Appellate Judge for reconsideration.

5. In view of the fact that fair hearing has not been given in the instant case, I am of the considered view that this Court is already burdened heavily and it cannot undertake the rehearing of the matter in each case. Moreover, the comparison made by the Judge with a naked eye regarding the signature is primitive one and as such, the same cannot be construed as scientific examination of signatures. Unless there is scientific examination of the signatures, no Court shall come to a

conclusion that signature is a forged one. Moreover, the Judge has to remember that he is not equipped with the latest scientific methods or instruments to compare the signatures. When once, the party denies the signatures on the vakalat and the counter, it is for the Court to examine and consider the same by examining the advocate and also the person who attested the signature on the vakalat. This exercise has not been done before the serious findings of the Court, which lead to serious consequences, viz., making use of forged document before a Court. The disposal was made in a casual manner without keeping all these aspects in mind. Therefore, I am of the considered view that the matter has to be sent back to the Appellate Court for reconsideration of the entire matter.

6. Therefore, the judgment in RCA No. 1 of 1996 is set aside and the matter is remanded to the Rent Control Appellate Authority-cum-Senior Civil Judge, Cuddapah for disposal according to law keeping in view the observations made by this Court supra. The learned Rent Control Appellate Authority is directed to examine the advocate for the respondent who accepted the vakalat and also the person who attested the vakalat, as a Court witness. He shall also permit both the parties to recall their witnesses and examine them after examination of all the Court witnesses. He shall also consider the written arguments submitted to the Court and shall give fresh finding on all the aspects keeping in view the observations made by this Court supra.

Accordingly, this CRP is allowed. Each party do bear their own costs. Since the RCC is of the year 1992, the Rent Control Appellate Authority shall dispose of the case within a period of three months from the date of receipt of copy of this order.