

Andhra High Court

Osman Ali Khan vs Ajit Kumar Jain on 21 October, 2005

Equivalent citations: 2006 (1) ALD 211

Author: N Ramana

Bench: N Ramana

ORDER N.V. Ramana, J.

1. The present revision petition is filed under Article 227 of the Constitution of India against the order dated 24-4-2004 passed in I.A.No. 422 of 2001 in R.C. No. 706 of 1995 by the III Additional Rent Controller, City Civil Court, Hyderabad.

2. The petitioner herein is respondent in R.C. No. 706 of 1995. The respondent herein filed R.C. No. 706 of 1995 for eviction, wherein he filed an application under Order VI Rule XVII of Civil Procedure of Code seeking 16 amendments on the ground that newly appointed advocate informed him to amend the eviction petition to submit the case in a correct form. The Court below by order dated 24-4-2002 allowed the said application with costs of Rs. 500/-. Against the said order, the present revision petition is filed.

3. Learned Counsel for petitioner submitted that the Court below erred in allowing the amendment petition permitting the respondent herein to amend the plaint at 16 places without considering the objections raised by the revision petitioner. It is further stated that the petitioner herein has also filed a counter-affidavit before the Court below opposing the amendment specifically stating that the proposed amendment goes to the root of matter and entirely changes the scope and ambit of the case. It is thus contended that the Court below without considering the objections raised by the petitioner herein and even without recording reasons has allowed the application simply granting costs of Rs. 500/-.

4. Learned Counsel for respondent herein supported the order under revision and submitted that the trial has not commenced and it was brought to the notice of the respondent that the plaint requires certain amendments. It is further stated that the Court below has rightly allowed the amendment application by granting costs of Rs. 500/-.

5. Heard learned Counsel for petitioner and learned Counsel for respondent. Perused the order under revision and material on record.

6. The order under revision reads as under:

Heard argument on petitioner side. Heard argument on respondent side. Perused the petition and counter and considering the grounds mentioned in the petition and in the interest of justice and this Court feels that no prejudice will be caused to other side if this petition is allowed. Hence, petition is allowed with costs of Rs. 500/- and directed to pay on or before 30-4-2002 other side petition stands dismissed.

7. It is quite unfortunate to note that the Court below without looking into the objections raised by the respondent/revision petitioner has surprisingly allowed the application permitting to amend the eviction petition in 16 paragraphs, merely observing that no prejudice will be caused to other side if the petition is allowed. That apart, the amendments were allowed merely on the ground that the same were suggested by a newly appointed advocate, which cannot be entertained. There are absolutely no reasons recorded by the Court below for allowing the amendments, which goes to the root of the matter and changes the plaint altogether. It is also surprising to note that at amendment No. 7, sub-letting was introduced instead of "inducted" which affects the rights of the revision petitioner. The Court below has failed to consider the fact that by seeking amendments, new pleas were sought be taken, which would cause prejudice to other side.

8. For the foregoing reasons the order of the Court below is hereby set aside and the revision petition is allowed dismissing I.A. No. 422 of 2001 in R.C. No. 706 of 1995. In the circumstances no costs.