

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL REVISION PETITION Nos.1164 OF 2005

&

3502 OF 2005

Dated 5th June, 2015

CIVIL REVISION PETITION No.1164 OF 2005.

Between:

Annapareddy Nagi Reddy and others.

..Petitioners.

And:

Kudaravalli Subrahmanyeswara Rao and others.

..Respondents.

CIVIL REVISION PETITION No. 3502 OF 2005

Between:

Kudaravalli Subrahmanyeswara Rao and others.

..Petitioners.

And:

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COMMON ORDER:

These two revisions arise out of separate proceedings. As dispute

between the parties is in respect of the same building, both revisions are heard together and disposed of by a common order.

C.R.P.No.1164 of 2005 is preferred challenging the orders of Principal Senior Civil Judge, Vijayawada passed in R.C.C.M.A.No.180 of 1998 dated 19-1-2005 and C.R.P.No.3502 of 2005 is against the orders of Principal Senior Civil Judge, Vijayawada passed in R.C.C.M.A.No.152 of 1998 dated 19-1-2005.

Revision petitioner in C.R.P.No.3502 of 2005 is landlord and the revision petitioner in C.R.P.No.1164 of 2005 is tenant and the parties are hereinafter referred to as "landlord and tenant" for convenience sake.

Landlord filed R.C.C.No.110 of 1995 which is re-numbered as R.C.C.No.344 of 1996 on the file of Rent Controller, Vijayawada for fixation of fair rent and he filed R.C.C.No.262 of 1996 on the file of Rent Controller, Vijayawada for eviction of tenant on the ground of "willful default"; "requirement of building for personal occupation", and tenant secured alternative accommodation.

Learned Rent Controller on a consideration of oral and documentary evidence, dismissed both the petitions i.e., petition for fixation of fair rent and petition for eviction and aggrieved by which, landlord preferred two separate appeals and the appellate authority who is the Principal Senior Civil Judge confirmed dismissal orders in respect of fixation of fair rent but reversed the orders in respect of eviction petition and ordered eviction of tenant accepting the ground, that tenant secured alternative accommodation. Now, aggrieved by the dismissal of fixation of fair rent application, landlord preferred one revision i.e., C.R.P.No.3502 of 2005 and aggrieved by eviction orders, tenant preferred C.R.P.No.1164 of 2005.

Heard both sides.

Advocate for tenant submitted that the observation of the court below that property purchased under Ex.B.8 is a joint property of tenant, as such, they have secured alternative accommodation is neither true nor correct. He further submitted that appellate authority failed to notice that R.W.2 has purchased the property under Ex.B.8 for his own purpose and he is individually doing business in the name of Natraj Jewellers and the tenant is nothing to do with the said business. He further submitted that tenant is the elder member of family and invitations are printed in his name but the appellate authority taking that circumstance into consideration held that it is the business of tenant himself and that finding is not at all correct.

On the other hand, advocate for landlord submitted that the appellate authority has rightly appreciated evidence on record and rightly held

that tenant has secured alternative accommodation and opened a new shop and therefore, correctly ordered eviction and that there are no grounds to interfere with the findings of the appellate court. He further submitted that there is no illegality or jurisdictional error to be interfered by this court and that the revision filed by tenant is liable to be dismissed.

Both sides have mainly argued about revision filed by the tenant only. Revision filed by the landlord in respect of fair rent application is not seriously contested.

Now the point that would arise for my consideration in these two revisions is whether the orders of the courts below are legal, correct and proper?

POINT:

According to landlord, tenant purchased the property under Ex.B.8 which is sale deed obtained in the name of his son and they started business in the name of Natraj Jewelers and Ex.A.10 invitation card would clearly show that it is the shop of tenant and his family only, therefore, he is to be evicted on the ground that tenant has got alternative accommodation.

Objection of the tenant is that he is nothing to do with the property purchased under Ex.B.8 and it is his son's property and the shop established under the name of Natraj jewelers is the business of his son-R.W.2 and therefore, the ground of alternative accommodation is not tenable.

Advocate for tenant contended that as per the evidence on record, both R.Ws.1 and 2 are living separately and the business opened under Ex.A.10 invitation card is exclusive business of R.W.2 and simply because invitation card is printed in the name of his father, that cannot be treated as business of father.

I have perused the orders of the appellate authority and the very same points are urged before him and on a consideration of the entire oral and documentary evidence, it is held that the business started under the name of Natraj Jewelers is the business of family and that the property was purchased with the joint money in the name of R.W.2 only to avoid ground of alternative accommodation. The appellate authority has thoroughly scanned evidence of R.Ws.1 and 2 and the evidence of P.Ws.1 to 4 and discarded the contention of tenant that it is the separate business of R.W.2. I do not find any wrong appreciation of evidence by the appellate authority in respect of alternative accommodation.

The law is well settled that the alternative accommodation must be

examined with reference to the original tenant. As rightly pointed out, if the objection of the tenant is to be accepted, landlord may not be able to get back his property till all children and grand children of the tenant establish their separate individual business establishment.

On a scrutiny of material, I am of the view that the appellate authority has rightly appreciated the evidence on record and correctly accepted the plea of alternative accommodation and there is no illegality or jurisdictional error or wrong appreciation of legal position and as such, there are no grounds to interfere with the eviction order passed by the appellate authority.

So far as fixation of fair rent petition is concerned, both courts rightly dismissed the application and there are no grounds to interfere with the concurrent findings.

For these reasons, I am of the view that both the revisions are devoid of merits and liable to be dismissed.

Accordingly, both the Civil Revision Petitions are dismissed. No costs.

Tenant is granted three months time to vacate the premises.

As a sequel to the disposal of these revisions, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE S.RAVI KUMAR

Dated 5th June, 2015.

Dvs.

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