

**HON'BLE SRI JUSTICE R. SUBHASH REDDY**

**CIVIL REVISION PETITION No.2796 of 2015**

**ORDER:**

The sole respondent in R.C.No.464 of 2009 on the file of the Principal Rent Controller, City Small Causes Court, Hyderabad, has filed this Civil Revision Petition under Section 22 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short "the Act") aggrieved by the order of eviction dated 03.05.2013, as confirmed by the Chief Judge, City Small Causes Court, Hyderabad.

2. For the sake of convenience, the parties are referred to as arrayed in R.C.No.464 of 2009.

3. 1<sup>st</sup> petitioner is the wife and 2<sup>nd</sup> petitioner is the son of late Hussain Bin Abdullah. It is the case of the petitioners that they are the owners of the petition schedule property, which is let out to the respondent on a monthly rent of Rs.500/-, which was enhanced from time to time and at the time of filing R.C., respondent was paying rent at Rs.3,000/- per month. Alleging default in payment of rents from February, 2009 and on the ground that respondent has committed Act of Waste and the respondent also secured alternative accommodation and further on the ground that the same is required for bona fide occupation, eviction from the petition schedule property is sought.

4. The respondent has filed counter-affidavit denying the allegations of petitioners.

5. Before the trial court, petitioners were examined as P.Ws.1 and 2 and Exs.P.1 to P.24 were marked. The respondent was examined as R.W.1, apart from examining R.W.2 and Exs.R.1 to R.22 were marked on their behalf.

6. The trial court, having considered oral and documentary evidence on record, has ordered eviction, by order dated 03.05.2013, on the grounds of willful default, securing alternative accommodation by the

respondent and also on the ground that petition schedule property is required for furniture business of the 2<sup>nd</sup> petitioner. R.A.No.86 of 2013 filed by the respondent against the said order of eviction was dismissed by the first appellate court by judgment and decree dated 20.03.2015, confirming the order of eviction and granting four months time to vacate the petition schedule premises.

7. It is submitted by the learned counsel for the petitioners-landlords that the trial court as well as the first appellate court have recorded concurrent findings of fact based on the oral and documentary evidence on record and in view of the same, there are no grounds for interference under Section 22 of the Act.

8. On the other hand, it is submitted by the learned counsel for respondent-tenant that though there is no acceptable evidence on record in support of the plea of the petitioners-landlords that the respondent-tenant has committed willful default in payment of rents, the trial court as well as the first appellate court have ordered eviction of the respondent-tenant without any basis.

9. In this case, there is no dispute with regard to jural relationship of the parents as landlords and tenant. It is the specific case of the petitioners-landlords that respondent-tenant has committed willful default in payment of rents from February, 2009. To prove payment of rents, respondent-tenant relied on Exs.R.16 to R.22, but on a detailed analysis of the said documentary evidence, it does not indicate payment of rents at all for the default period. Even though respondent-tenant has filed R.C.No.264 of 2009 for deposits of rents under Section 8(5) of the Act, the same is dismissed after due contest; in spite of the same no steps have been taken for payment of rents. In the absence of any acceptable material and evidence from the side of the respondent-tenant to prove that he has paid rents from February, 2009, the trial court recorded a finding that he has willfully defaulted in paying rents. Even with regard to alternative accommodation, the trial court relied on Ex.P.17, Gift Settlement Deed dated 28.09.1991, which is executed in favour of the

respondent-tenant by way of gift, by which property bearing H.No.3-5-783/24/A is transferred in his favour, which is situated in the same area as that of the petition schedule property. With regard to bona fide requirement, there is evidence on record as per which it is clear that 2<sup>nd</sup> petitioner is doing business in furniture in a rented premises in Mojamjahi Market by paying huge rents to the landlords therein. In the cross-examination of the respondent-tenant, it is categorically admitted that in the reply to notice under Ex.P.15, it is mentioned that the late landlord and his sons are doing furniture business in Mojamjahi Market in a rented accommodation. Exs.P.1 and P.2 are the rental receipts pertaining to the premises at Mojamjahi Market where the 2<sup>nd</sup> petitioner in the R.C., is doing furniture business. The trial court has correctly recorded findings on the grounds of willful default, securing alternative accommodation and bona fide requirement of the petitioners-landlords. The first appellate court re-appreciated the evidence on record and has come to the same conclusion. In view of the concurrent findings recorded by the courts below, there are no grounds to interfere with the same.

10. The Civil Revision Petition is accordingly dismissed. No order as to costs.

11. However, as it is pleaded that the respondent in the R.C., has to secure alternative accommodation, four months time from today is granted to the respondent in the R.C., to vacate the petition schedule premises, subject to filing an undertaking before the Registry of this Court to the said effect within two weeks from the date of receipt of this order.

As a sequel, miscellaneous petitions if any pending in the C.R.P., stand closed.

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R. SUBHASH REDDY, J

October 1, 2015

MRR

