

HON'BLE SRI JUSTICE R. SUBHASH REDDY

Civil Revision Petition No.3994 of 2015

ORDER:

This Civil Revision Petition, under Section 22 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short "the Act") is filed by the defendant in R.C.No.23 of 2010 aggrieved by the order dated 22.04.2013 passed by the Principal Rent Controller, Hyderabad, as confirmed by the Additional Chief Judge, City Small Causes Court, Hyderabad, by order dated 10.07.2015, passed in R.A.No.68 of 2013.

2. The respondents herein are the owners and possessors of the petition schedule property in R.C.No.23 of 2010 on the file of the Principal Rent Controller, Hyderabad and the petitioners herein are the tenants in the said property on a monthly rent of Rs.1,765/- and they are carrying on the business in the name of Famous Button Center. As per the terms of the lease agreement, rent is payable every month. It is the allegation of the respondents that petitioners have committed default in payment of rent from July, 2009 till January, 2010.

3. Petitioners herein filed counter-affidavit before the Rent Controller disputing the allegations of the respondents.

4. Before the Rent Controller, on behalf of the respondents herein, P.Ws.1 and 2 were examined and Exs.P.1 to P.3 were marked. On behalf of the petitioners herein, R.W.1, son of the original tenant, was examined and Exs.R.1 to R.12 were marked.

5. The Rent Controller, by recording a finding that there is willful default in payment of rent from July, 2009 till January, 2010, ordered eviction by order dated 22.04.2013 and on appeal, the Additional Chief Judge, by judgment dated 10.07.2015, dismissed the same.

6. Heard the learned counsel for the parties and perused the material on record.

7. It is contended by the learned counsel for the petitioners that the learned Senior Civil Judge has erroneously thrown burden on the

petitioners to prove that they have not committed any willful default in payment of rent and confirmed the order of eviction passed by the Rent Controller.

8. On the other hand, it is contended by the learned counsel for the respondents that even as per the statement made by R.W.1, rent was not paid from July, 2009 till January, 2010 and, further, in view of the concurrent findings of fact on the issue of default in payment of rent, there are no grounds to interfere with the impugned order.

9. From the findings recorded by the Rent Controller, as confirmed in appeal, it is clear that as against the evidence of the respondents herein, on behalf of the petitioners herein, original tenant's son by name by name Mohd. Khadeer is examined as R.W.1 before the Rent Controller. In his deposition, he has clearly stated that defendant No.1 in the R.C., has committed willful default in payment of rent since July, 2009. When it is the specific allegation of the respondents herein that rent was not paid from July, 2009 till January, 2010, the same is not controverted by the petitioners herein by producing any acceptable evidence. Though it is the case of the petitioners herein that the allegations are false, however, they have not taken any steps seeking direction against the respondents herein to produce the book containing the entries of payment of rent. The concurrent findings recorded by the Rent Controller and the learned Additional Chief Judge are in consonance with the evidence on record and no case is made out for interference in exercise of jurisdiction under Section 22 of the Act.

10. The Civil Revision Petition is accordingly dismissed. No order as to costs. However, as it is stated that petitioners-tenants are running tailoring-material shop from the last several years in the petition schedule premises, they are granted four months time from today to vacate the petition schedule premises, subject to their filing undertaking before the Registry of this Court, within three weeks from today, undertaking to vacate the schedule premises within four months from today. If no such undertaking is filed, it is open to the respondents-landlords to enforce the eviction decree. Needless to observe that the petitioners-tenants shall

clear off arrears of rent and shall pay rent regularly till they vacate the petition schedule premises.

As a sequel, miscellaneous petitions if any pending in the Civil Revision Petition stand closed.

R. SUBHASH REDDY, J

22nd September, 2015

MRR

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

Civil Revision Petition Nos.3778 & 3827 of 2015

Between:

Sher Yar Khan ...Petitioner

and

Fazalunnisa Begum and others ... Respondents

Date of order pronounced: 18th September, 2015

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HON'BLE SRI JUSTICE R. SUBHASH REDDY _____

1. Whether Reporters of Local newspapers :

may be allowed to see the order?

2. Whether the copies of order may be :

marked to Law Reporters/Journals?

3. Whether His Lordship wishes to :

see the fair copy of the order?

