

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

CIVIL REVISION PETITION No.4253 OF 2015

ORDER:-

This Civil Revision Petition is filed by the petitioner/tenant under Section 22 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short, "the Act") read with Section 151 of the Code of Civil Procedure, 1908 aggrieved by the order, dated 05.06.2015, in R.A.No.246 of 2011 passed by the Chief Judge, City Small Causes Court, Hyderabad, confirming the order, dated 20.10.2011, in R.C.No.163 of 2009 passed by the II Additional Rent Controller, City Small Causes Court, Hyderabad.

2. Respondent/landlady, who is the owner of Mulgie bearing Municipal No.1-1-230/2/5, situated at Viveknagar, Chikkadpally, Hyderabad, let out the same to the petitioner/tenant for doing kirana and general stores business at an agreed rent of Rs.1,000/- per month. She has filed R.C.No.163 of 2009 under Section 10(2)(i) and 10(3)(a)(iii)(b) of the Act mainly on two grounds i.e., (i) there is a willful default in payment of rents for a period of five months commencing from December, 2008 to April, 2009; and (ii) under *bona fide* and personal requirement of the petition schedule property for her husband to commence business in electric items by opening an electric shop.

3. Before the Rent Controller, on behalf of the respondent/landlady, P.W.1 was examined and documentary evidence under Exs.P-1 to P-4 were marked. On behalf of the petitioner/tenant, R.Ws.1 to 4 were examined and documentary evidence under Exs.R-1 to R-18 were marked.

4. The Rent Controller, after appreciating the oral and documentary evidence on record, ordered eviction of the petitioner/tenant by order, dated 20.10.2011.

5. Aggrieved by the said order, the petitioner/tenant carried the matter in appeal in R.A.No.246 of 2011 on the file of the Chief Judge, City Small Causes Court, Hyderabad. The appellate Court, after re-appreciation of the evidence and perusing the material on record, by judgment, dated 05.06.2015, in R.A.No.246 of 2011,

dismissed the appeal while confirming the order of eviction on both the grounds of willful default and *bona fide* requirement.

6. Aggrieved by the said judgment of the appellate Court, the petitioner/tenant filed the present Civil Revision Petition.

7. Learned counsel for the petitioner contended that in the absence of any evidence on record, the trial Court as well as the appellate Court have ordered eviction of the petitioner from the petition schedule property and hence, he prays to set aside the impugned order.

8. On the other hand, learned counsel appearing for the respondent - caveator contended that in view of willful default and *bona fide* requirement, both the Courts below have rightly ordered for eviction of the petitioner/tenant and there is no ground to interfere with the said order of eviction.

9. Having heard the learned counsel for the parties, I have perused the orders passed by the trial Court as well as the appellate Court.

10. From the evidence on record, it is clear that the petitioner has committed willful default in payment of rents from December, 2008 to April, 2009. Further, it is also the specific case of the respondent that the petition schedule property is *bona fide* required for starting an electrical shop by her husband. That requirement is proved from the deposition of P.W.1 coupled with the documentary evidence under Exs.P-1 to P-4. In view of the same, the trial Court has ordered for eviction of the petitioner/tenant and the appellate Court, after re-appreciating the evidence on record, has confirmed the findings recorded by the trial Court.

11. In view of the concurrent finding of facts recorded by both the Courts below, this Court do not find any merit in this Revision Petition so as to interfere with the impugned judgment. At the same time, learned counsel appearing for the petitioner

requested for grant of some time to vacate the petition schedule property in order to secure an alternative accommodation, as the petitioner is running a fair price shop for a quite long time.

12. In view of the request made by learned counsel for the petitioner and as there is also evidence on record to show that the petitioner/tenant is running a fair price shop in the petition schedule property, it is a fit case to grant six (6) months time from today to the petitioner to vacate the petition schedule property subject to the condition of the petitioner filing an undertaking before the Registry of this Court to that effect, duly signed by his counsel after serving a copy on the other side within a period of two (2) weeks from today.

13. Subject to the above directions, this Civil Revision Petition is dismissed. There shall be no order as to costs.

14. Miscellaneous Petitions pending, if any, in this Civil Revision Petition shall stand closed.

JUSTICE R.SUBHASH REDDY

Date: 14.10.2015

AMD

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Dated: 14.10.2015

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