

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.3752 of 2015

ORDER :

This Revision is filed under Section 22 of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 [for short, 'the Act'], challenging the order dt.07.08.2015 in R.C.A.No.01 of 2012 on the file of Principal Senior Civil Judge, Warangal confirming the order dt.29.06.2012 in R.C.C.No.14 of 2010 on the file of Principal Junior Civil Judge – cum – Rent Controller, Warangal.

2. The petitioner herein is the tenant of respondent. The respondent filed the R.C.C. for eviction of petitioner stating that she is a widow and that petitioner was her tenant, inducted by her late husband; her husband died and it had become difficult to educate her children; she requested petitioner to vacate the premises in order to establish a small business to lead better life; that the petitioner-tenant executed an agreement dt.02.03.2009 agreeing to vacate by October 2009, but did not vacate the premises, and instead filed a suit O.S.No.998 of 2009; that petitioner is doing several business at Yadav Nagar in a house bearing No.3-9-701; that he had also possession of two other buildings one near the R.C. schedule property, and the other let out to M/s.Radium and Om Sai Furniture; petitioner also got three buildings at Brahminwada bearing No.6-8-72, altogether he was getting rental up to Rs.50,000/-; despite a notice dt.23.01.2010, the petitioner had not vacated; and therefore, the petitioner be directed to vacate the R.C. Schedule premises.

3. The petitioner herein filed a counter admitting the jural relationship, but contending that the respondent was refusing to receive rents; that she did not require the R.C. schedule premises for doing any business; and there is no cause of action for the R.C.
4. Before the Rent Controller, the respondent examined herself as P.W.1 and marked Exs.P.1 to P.7, while the petitioner examined himself as R.W.1.
5. By order dt.29.06.2012, the Rent Controller allowed the R.C. It took note of Ex.P.1 agreement executed by petitioner in favour of respondent agreeing to handover possession of the R.C. schedule premises by 31.10.2009, and his subsequent failure to do so. It also held that Exs.P.3 to P.6, certificates of encumbrance of property, show that petitioner's wife, viz., G. Sarojana, had certain properties. Although petitioner contended that respondent had one mulgi in the first floor and she can establish a business therein, it held that it was not for petitioner to direct the landlady to opt for the upstairs portion for doing business. It further held that the oral evidence of petitioner cannot be considered having regard to Exs.P.2 to P.6 which indicated that his wife owned and possessed some buildings and petitioner also possessed one building, and that petitioner did not examine his wife to disprove the plea of respondent that she possessed properties.
6. Challenging the said order, the petitioner filed R.C.A.No.1 of 2012 before the Principal Senior Civil Judge, Warangal.
7. The appellate authority also confirmed the said findings. It took

note of Ex.P.2, agreement dt.02.03.2009 executed by petitioner, and his admission in cross-examination that his wife owns a building at Hanamkonda and also a mulgi near Alankar theatre consisting of two floors. It took note of the fact that the children of respondent are students and she wanted to set up a Kangan Hall in the R.C. schedule premises, since the income was not sufficient to maintain her children.

8. Questioning the same, the present Revision is filed.
9. Heard Sri V. Vishwanatham, counsel for petitioner. None appears for respondent.
10. The counsel for petitioner contended that in the evidence of respondent she admitted that she had a shop in the first floor which is vacant, and since the respondent had such a premises available to do her business, she cannot ask for eviction of petitioner; and that Ex.P.2 agreement dt.02.03.2009 was obtained from him by coercion by respondent.
11. From the facts narrated above, it is clear that petitioner was inducted as a tenant by the husband of respondent who died in 2006 and that respondent being his widow wanted to secure possession of the R.C. schedule premises so that she can do Kangan business therein to augment her income to educate her three children. In view of the fact that respondent is a widow under Section 10-c of the Act, in fact the respondent is entitled to immediate possession of the R.C. Schedule premises. Due to improper legal advice, probably she did not invoke the said provision. But the fact remains that petitioner had himself executed Ex.P.2 agreement dt.02.03.2009 agreeing to vacate the R.C. schedule premises by 31.10.2009. No plea was taken

by petitioner either before the primary authority or before the appellate authority that this agreement was obtained from petitioner by coercion by respondent. The evidence on record also categorically establishes that petitioner has other premises belonging to him and his wife, for doing business.

12. In the light of these circumstances, I do not find any error in the order passed by the Rent Controller as well as the appellate authority directing eviction of petitioner from the R.C. schedule premises. The conclusion of both the rent controller as well as the appellate authority is consistent with the principle behind enactment of Section 10-c of the Act also.
13. Therefore, I do not find any merit in this Revision, and it is accordingly dismissed. No order as to costs.
14. Since the petitioner is said to be a tenant for a considerable period under the respondent, time till 15.01.2016 is granted to petitioner to vacate the R.C. schedule premises subject to petitioner filing an undertaking before the Rent Controller within a period of two (2) weeks from the date of receipt of a copy of this order to that effect, and also undertaking to pay rents up to that date without fail on or before 5th of succeeding month. In default of complying with any of these conditions, the petitioner shall be liable to be evicted forthwith from the R.C. schedule premises.
15. As a sequel, miscellaneous petitions pending if any in this Revision shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 11.09.2015

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