

HON'BLE SRI JUSTICE R. SUBHASH REDDY

Civil Revision Petition No.5167 of 2015

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Order:

This Civil Revision Petition, under Section 22 of the A.P. Buildings (Lease, Rent & Eviction) Control Act, 1960 (for short "the Act") is filed by the defendant in R.C.No.273 of 2012 on the file of the III Additional Rent Controller, Hyderabad, aggrieved by the order dated 25.09.2014, as confirmed by the Additional Chief Judge, City Small Causes, Court, Hyderabad, by judgment dated 04.09.2015 passed in R.A.No.249 of 2014.

2. For the sake of convenience, the parties are referred to as arrayed in R.C.No.273 of 2012.

3. Petitioner is the owner of commercial shop admeasuring 202 Sq. ft., covered by premises bearing No.5-8-520/3 in Jagdish Market, Abids, Hyderabad. After purchase of the said property by the petitioner, there was attornment of tenancy and the respondent was paying rents to the petitioner. She filed the R.C., on the ground that the said shop is required for her husband who is unemployed and who is a licenced share sub-broker. It is the case of the petitioner that her husband is doing business in a licenced premises and as the petition schedule premises is required for occupation by her husband, on the plea of bona fide occupation, she sought

eviction of the respondent from the suit schedule premises.

4. The respondent contested the petition mainly on the ground that the suit schedule premises is not suitable for the business of the husband of the petitioner and denied that he is a licenced share sub-broker.

5. In the R.C., petitioner was examined as P.W.1 apart from examining P.W.2 and Exs.P.1 to P.7 were marked on her behalf. Respondent himself was examined as R.W.1 and Exs.R.1 to R.9 were marked on his behalf.

6. The learned Rent Controller, appreciating oral and documentary evidence on record, has passed order dated 25.09.2014, evicting the respondent, by recording a finding that the contention of the respondent that suit schedule premises is not suitable for starting share broking business by the husband of the petitioner is not tenable. Accordingly, by upholding the plea of bona fide occupation raised by the petitioner, eviction is ordered. As against the same, respondent filed R.A.No.249 of 2014 before the Additional Chief Judge, City Small Causes, Court, Hyderabad, who, by judgment dated 04.09.2015, dismissed the appeal, by recording a finding that the Rent Controller arrived at correct conclusion in answering the point in favour of the petitioner.

7. Even in this appeal, the only contention advanced is

that the respondent-tenant is doing business in repairs of mobile phones in the name and style of Glossy Mobile Planet and is regularly paying rents by way of demand drafts. It is pleaded that the petition schedule premises is not suitable for the share broking business of the husband of the petitioner-landlady.

8. Heard learned counsel for the petitioner-tenant, learned counsel for the respondent-landlady and Sri Aadesh Varma, learned counsel for the caveator.

9. It is not in dispute that the petitioner in the R.C., is the landlady and the respondent therein is the tenant and tenancy is not disputed. The case of the petitioner-landlady is that the petition schedule premises is required for personal occupation of her husband who is unemployed, for the purpose of his share broking business. The Rent Controller has upheld the said plea of the petitioner-landlady and rejected the plea of the respondent-tenant that the petition schedule premises is not suitable for the business of husband of the petitioner. The appellate Tribunal has rightly found that it is for the landlord/landlady to choose the premises and tenant cannot dictate which premises is to be occupied for the purpose of establishing proposed business by the husband of the petitioner-landlady. Having regard to the evidence on record and concurrent findings recorded by the Courts below, no interference is warranted with the

orders of eviction in exercise of jurisdiction under Section 22 of the Act.

10. The Civil Revision Petition is accordingly dismissed. The respondent-tenant is granted four months time to vacate the petition schedule premises. He shall file an undertaking to vacate the petition schedule premises before the expiry of four months from today in the Registry of this Court, in two weeks from the date of receipt of this order, by serving a copy on the other side. No order as to costs.

As a sequel, miscellaneous petitions if any pending stand closed.

R. SUBHASH REDDY, J

November 27, 2015
MRR