

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.5044 of 2015

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 respondent in R.C.No.112 of 2010 on the file of the Principal Rent Controller, Secunderabad, aggrieved by the order dated 29.03.2012 passed therein, as confirmed by the Chief Judge, City Small Causes Court, Hyderabad by judgment dated 26.06.2015 passed in R.A.No.119 of 2012.

2. For the sake of convenience, the parties are referred to as arrayed in R.C.No.112 of 2010.

3. The aforesaid R.C., is filed by the petitioner under Sections 10(2)(i), 10(ii)(b), 10(2)(iii), 10(2)(iv) and 10(2)(v) of the Act for eviction of the respondent from the building bearing Municipal No.5-5-9/9, admeasuring 355.27 Sq. ft., on the first floor, situated at Ranigunj, Secunderabad.

4. Originally, mother of the petitioner was the owner of the aforesaid premises and she has gifted the same to the petitioner. Prior to the gift, respondent was inducted as tenant and he was paying Rs.2,076/- per month towards rent excluding electricity charges and property tax. It is the case of the petitioner that the said premises was obtained for the purpose of carrying on iron and steel

business. The R.C., is filed mainly on the ground that the respondent has committed wilful default in payment of rent from December 2008 to June, 2010. It is the case of the petitioner that the respondent is using the premises for the purpose for which it was let out to him and thereby he committed an act of waste. It is also the case of the petitioner that the respondent has secured alternative premises and is carrying on business in the name and style of M/s. Naveen Metal Udyog at premises No.4-5-155, Pan Bazar, Secunderabad, as such, he is liable for eviction from the petition schedule premises.

5. Respondent has filed counter disputing the allegations of the petitioner. It is the case of the respondent that petitioner was in the habit of receiving rent once in 6 or 8 months and though he was ready to pay rent from December, 2009, petitioner was not accepting the rent stating that there was no urgency for rent, as such, the same cannot be termed as default in paying rent. It is stated that respondent has offered to pay an amount of Rs.19,824/- by crossed cheque for the period from December 2009 to September 2010 but petitioner refused to receive the same, as such it does not amount to default in paying rent. Respondent has denied the allegation of using the premises for the purpose for which it was let out to him and also denied the allegation of the petitioner that he secured alternate accommodation and doing business in the name and style of M/s. Naveen

Metal Udyog.

6. Before the Rent Controller, petitioner was examined as P.W.1 apart from examining P.W.2 and filing Exs.P.1 to P.12 on his behalf. Respondent was examined as R.W.1 and Exs.R.1 and R.2 were filed on his behalf.

7. The Rent Controller, by appreciating the oral and documentary evidence on record, held that respondent committed wilful default in paying rent and property tax and further recorded finding that petitioner committed act of waste by securing alternate premises for carrying on business and ordered eviction by order dated 29.03.2012. As against the same, petitioner filed appeal before the Chief Judge, City Small Causes Court, Hyderabad, who, by judgment dated 26.06.2015, confirmed the eviction ordered by the Rent Controller.

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

9. It is contended by the learned counsel for the respondent-tenant, i.e. the revision petitioner, that petitioner-owner was in the habit of receiving rent once in 6 months and he refused to accept cheque presented by the petitioner; as such it cannot be said that the respondent committed default in paying rent and there is no basis for the allegation that the respondent-tenant secured alternate accommodation for running business.

10. On the other hand, it is submitted by the learned counsel for the petitioner-landlord that in view of the concurrent finding of fact recorded by both the courts below, there are no grounds to interfere with the same. It is further submitted that admittedly respondent-tenant has committed default in paying rent and property tax as agreed upon and the respondent-tenant has secured alternate accommodation and is running business therein.

11. In this case, it is not in dispute that petitioner is the landlord and the respondent is the tenant. With regard to the allegation of the petitioner-landlord that respondent-tenant defaulted in paying rent, the stand of the respondent-tenant that petitioner-landlord was accepting rent once in six months. However, he has not produced any independent evidence in support of the same. Further, though it is agreed that respondent-tenant has to pay property tax, he has failed to pay the same only on the premise that no demand notice was issued. When the respondent-tenant obtained the petition schedule premises on rent, it is obligatory on his part to pay property tax as per the terms of the rental deed. However, admittedly, he has failed to pay the same. Such admissions on his part are sufficient to hold that he has committed wilful default in paying rent and property tax. It is also clear from the evidence on record that he was not using the petition schedule premises for the purpose for

which he obtained the same on rent and further he also secured alternate accommodation for doing business. The Rent Controller recorded findings by appreciating the evidence on record and ordered eviction, which is confirmed by the Chief Judge, City Small Causes Court by re-appreciating the evidence on record. Hence, this Court is of the view that there are no grounds to interfere with the order of eviction.

12. The Civil Revision Petition is accordingly dismissed. No order as to costs. However, as it is pleaded that respondent-tenant has to secure alternate accommodation, he is granted four months time to vacate the petition schedule premises subject to filing an undertaking before the Registry of this Court within a period of two weeks from the date of receipt of this order to the effect that he will vacate the petition schedule premises within four months from today.

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

R. SUBHASH REDDY, J

December 23, 2015
MRR