

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.5278 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.242 of 2009 on the file of the Principal Rent Controller-cum-XII Junior Civil Judge, Hyderabad, aggrieved by the order dated 06.08.2012 passed therein, as confirmed by the Additional Chief Judge, City Small Causes Court, Hyderabad by judgment dated 01.10.2015 passed in R.A.No.188 of 2012.

2. For the sake of convenience, the parties are referred to as arrayed in R.C.No.188 of 2012.

3. The petitioner is the owner of the petition schedule property having purchased the same from its previous owner Mrs.Shameem Sultana by entering into agreement of sale-cum-GPA on 21.11.2008 and the tenancy was attorned in favour of the petitioner. It is the case of the petitioner that respondent-tenant was paying monthly rent of Rs.350/- and he committed default in paying rent from 21.11.2008. In spite of demand on 28.12.2008 to pay rent, respondent refused to pay the same and alleging wilful default in payment of rent and also on the ground of bona fide requirement, eviction was sought by the petitioner.

4. The respondent-tenant filed counter in the R.C., disputing the allegations made by the petitioner-landlord mainly on the ground that in the absence of any regular transfer deed in favour of the petitioner, he cannot claim to be the owner and cannot seek eviction. Further, denying bona fide requirement as claimed by the petitioner-landlord, the respondent-tenant contested the R.C.

5. Before the Rent Controller, petitioner-landlord was examined as P.W.1 and his vendor was examined as P.W.2 and documentary evidence, viz., P.1 to P.14 were marked. On behalf of the respondent-tenant, he himself was examined as R.W.1 and no documentary evidence was marked.

6. The Rent Controller, appreciating the oral and documentary evidence on record, recorded finding that respondent-tenant committed default in paying rent and further held that petitioner-landlord is in bona fide requirement of petition schedule premises. Recording such findings, eviction was ordered by order dated 06.08.2012. As against the same, respondent-tenant filed appeal before the Additional Chief Judge, City Small Causes Court, Hyderabad, who, by judgment dated 01.10.2015, dismissed the appeal filed by the respondent-tenant confirming the order of eviction.

7. Heard learned counsel for the parties and perused

the material on record.

8. It is submitted by the learned counsel for the petitioner-landlord, i.e. the revision petitioner that in the absence of any acceptable evidence on record, the Rent Controller and the Additional Chief Judge have committed error in accepting the plea of the petitioner-tenant that he is the owner of the petition schedule premises and also the bona fide requirement pleaded by him.

9. It is true that, earlier, one Mrs. Shameem Sultana was the owner and possessor of the petition schedule property and she sold the same to the petitioner by agreement of sale-cum-GPA on 21.11.2008 and delivered possession to the petitioner-landlord. While it is true that there is no regular sale deed, but there is agreement of sale in favour of the petitioner-landlord which is coupled with possession and further the vendor, viz., Mrs. Shameem Sultana was examined as P.W.2, who, in clear terms stated that she sold the petition schedule property to the petitioner and rent has to be paid to the petitioner. In spite of demand by the petitioner-landlord, rent was not paid by the respondent-tenant. In view of the evidence of P.W.2, who has admitted that petition schedule property was sold to the petitioner-landlord, there is no reason for not paying rent to the petitioner-landlord. The evidence on record establishes that respondent-tenant committed wilful default in paying rent. Even with regard to bona fide

requirement pleaded by the petitioner-landlord, it is clear from the evidence of the petitioner as P.W.1, that he is living a joint family along with three brothers in a small building constructed in 40 sq. yards, as such, he is in need of the petition schedule property for personal occupation. The Rent Controller recorded findings by appreciating the evidence on record and ordered eviction, which is confirmed by the Additional 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.

10. 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

