

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.2795 of 2015

ORDER:

This Civil Revision Petition is filed under Section 22 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short "the Act") by the 1st respondent in R.C.No.463 of 2009 on the file of the Principal Rent Controller, Hyderabad, aggrieved by the order and decree dated 03.05.2013, as confirmed by the Chief Judge, City Small Causes Court, Hyderabad, vide judgment and decree dated 20.03.2015 passed in R.A.No.87 of 2013.

2. For the sake of convenience, the parties are referred to as arrayed in R.C.No.463 of 2009.

3. Petitioners are owners of the petition schedule property, bearing No.3-5-784/A/2 to 6, situated at King Kothi, Hyderabad. Originally, late husband of the 1st petitioner and father of the 2nd petitioner had let out the petition schedule property to the 1st respondent under rental agreement dated 02.01.1975 on a monthly rent of Rs.225/- for a period of 11 months. Rent was enhanced from time to time and at the time of filing R.C., it is alleged, 1st respondent was paying Rs.3,000/- per month. The 1st respondent was running bakery in the petition schedule property. Alleging default in payment of rents from February, 2009 and also alleging that the 1st respondent sub-leased the Eastern portion of the petition schedule property to the 2nd respondent and 1st respondent has also secured alternative accommodation, and, further, on the ground that the petition schedule property is required for the purpose of running business by the 2nd petitioner, eviction is sought.

4. The respondent has filed counter-affidavit denying the allegations of petitioners.

5. Before the trial court, petitioners-landlords were examined as

P.Ws.1 and Exs.P.1 to P.21 were marked on their behalf.

1st respondent was examined as R.W.1, apart from R.W.2 and R.W.3 and Exs.R.1 to R.22 were marked on behalf of 1st respondent and Exs.R.23 to R.26 were marked on behalf of the 2nd respondent.

6. The trial court, having considered oral and documentary evidence on record, has recorded a finding that respondents committed willful default in payment of rents from February, 2009 and 1st respondent has sub-leased the petition schedule property to the 2nd respondent and 1st respondent has secured alternative accommodation and, further, petitioners require the petition schedule property for the purpose of furniture business of the 2nd petitioner, has ordered eviction by order dated 03.05.2013. R.A.No.87 of 2013 filed by the respondents against the said order of eviction was dismissed by the first appellate court by judgment and decree dated 20.03.2015, confirming the order of eviction on all the four grounds, viz., willful default, sub-letting, bona fide requirement and securing alternative accommodation. The first appellate court granted four months time to the respondents to vacate the premises.

7. It is submitted by the learned counsel for the petitioner-landlord that all the four grounds, viz., willful default, sub-letting, bona fide requirement and securing alternative accommodation, are proved by oral and documentary evidence on record and in view of concurrent findings of fact on all the said grounds, there are no grounds for interference under Section 22 of the Act.

8. On the other hand, it is submitted by the learned counsel for respondents-tenants that though there is no acceptable evidence on record, the trial court as well as the first appellate court have committed error in ordering eviction on the grounds of willful default, sub-letting, bona fide requirement and securing alternative accommodation.

9. Primarily, it is the case of the petitioners-landlords that there is default in payment of rents from February, 2009. It is also the specific

plea of petitioners that 2nd respondent was inducted as sub-tenant by sub-leasing a portion of the petition schedule property. It is also their case that 2nd petitioner is engaged in furniture business at Mojam Jahi Market in a rented premises by paying huge rents and he intends to shift his business to the petition schedule property. It is further their case that 1st respondent has secured alternative accommodation in King Kothi itself which is near the petition schedule property and on that ground also, vacation is sought. Though 1st respondent has filed R.C.No.264 of 2009 for deposit of rents under Section 8(5) of the Act, the same was dismissed after due contest. To disprove default in payment of rents, respondents-tenants relied on Exs.R.16 to R.22, but none of the documents show that rents are deposited. With regard to sub-lease, though such allegation is denied by 1st respondent, 2nd respondent himself admitted that 1st respondent has leased out portion of the premises and also obtained Rs.2 lakhs as deposit. To prove that 1st respondent has secured alternative, petitioners proved by Ex.P.17, Gift Settlement Deed dated 28.09.1991, which is executed in favour of the 1st respondent by way of gift with regard to ground floor of the house bearing No.3-5-783/24/A totally admeasuring 200 sq. yards. Thus, securing of alternative accommodation is proved. Even with regard to bona fide requirement, it is the specific case of 2nd petitioner that he intends to shift his furniture business from Mojamjahi Market, which is in rented premises by paying huge rents, to the petition schedule property. Thus, in view of the oral and documentary evidence on record, this Court is of the view that the trial court has ordered eviction on all the four grounds referred above and the first appellate court has rightly confirmed the same by re-appreciating the evidence on record. Hence, there are no grounds to interfere with the said orders.

10. The Civil Revision Petition is accordingly dismissed. No order as to costs.

11. However, as it is pleaded that the respondents in the R.C., have to secure alternative accommodation, four months time from today is granted to the respondents in the R.C., to vacate the petition schedule premises, subject to filing an undertaking before the Registry of this Court to the said effect within two weeks from the date of receipt of this order.

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

R. SUBHASH REDDY, J

October 1, 2015

MRR