

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.1341 of 2014

ORDER :

This Revision is filed under Section 22 of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960, challenging the order dt.20.03.2014 in R.C.A.No.8 of 2013 by the Principal Senior Civil Judge – cum – Rent Control Appellate Authority, Kakinada, confirming the order and decree in R.C.C.No.25 of 2010 dt.31.07.2013 on the file of Rent Controller-cum-Principal Junior Civil Judge, Kakinada.

2. The petitioner herein is the tenant of respondent in respect of a non-residential premises in Kakinada town. The lease commenced on 10.10.2007 on a monthly rent of Rs.800 per month and was valid for the period 10.10.2007 to 09.10.2010.

3. Thereafter, the respondent requested the petitioner on 05.06.2010 to vacate the suit schedule shop by 09.10.2010 and hand over vacant possession of the same on 10.10.2010, since her son wanted to start a kirana business.

4. Alleging that petitioner did not vacate the same and continued to occupy the same, the respondent got issued a registered notice, Ex.P.1 dt.22.10.2010, to

petitioner to vacate the R.C. schedule premises, but the petitioner did not reply to the same and also did not vacate the premises. So, she filed the R.C.C. for his eviction.

5. The petitioner entered appearance and filed a counter denying the allegations made in the R.C.C. He set up a plea that the respondent agreed to continue him in occupation since there was a possibility of the demolition of the leased premises for road widening; that there was an oral agreement between the parties allegedly entered into on 15.05.2010 permitting him to continue in possession for a further period of ten years from 10.10.2010.

6. Before the Rent Controller, the respondent examined PWs.1 and 2 and marked Exs.P.1 to P.4. The petitioner examined RWs.1 and 2 and marked Ex.R.1.

7. By order dt.31.07.2013, the Rent Controller allowed the R.C.

8. Challenging the same, the petitioner filed R.C.A.No.8 of 2013 before the Principal Senior Civil Judge – cum – Rent Control Appellate Authority. The said appeal was also dismissed on 20.03.2014.

9. Challenging the same, the present Revision is filed.

10. Heard Sri S. Subba Reddy, counsel for petitioner;

and Sri V.V.L.N. Sharma, counsel for respondent.

11. Both the Rent Controller as well as appellate authority concurrently held that the respondent required the suit schedule shop for her personal occupation to enable her son, PW.2, to do kirana business in the shop since he was unemployed. They did not believe the case of petitioner on the ground that the chief-examination of RW.2 was contradicted by his own cross-examination with regard to the terms and conditions of continuance of petitioner as a tenant in the mediation allegedly held on 15.05.2010. Both the Courts also rejected the contention of petitioner that the son of respondent had admitted, as PW.2, that he did not have experience to start kirana business, and therefore, for his benefit, the respondent cannot seek possession of the R.C. schedule property. The lower appellate court observed that many people start new business even if they do not have experience in the new business, and they even become successful in the new business. It further held that except the R.C. schedule property the respondent had no other non-residential building to set up business, and since the respondent's son is unemployed, there is nothing wrong in the respondent seeking to set up business of her son in the R.C. schedule premises, and that the requirement is therefore *bona fide*.

12. Although the counsel for petitioner sought to assail the correctness of the findings of Rent Controller as well

as the appellate authority, I am of the opinion that the concurrent findings of fact arrived at by both the courts are based on proper appreciation of evidence on record, and do not warrant any interference by this Court in exercise of its Revisionary jurisdiction under Section 22 of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960. The said findings of both the Rent Controller and appellate authority are sound and cannot be said to be perverse, and that the said authorities have rightly granted relief of eviction rejecting the contention of petitioner that the son of respondent had no experience to start kirana business.

13. I, therefore, do not find any merit in the Revision, and it is accordingly dismissed. No order as to costs.

14. However, time for evicting the R.C. schedule premises is granted to petitioner up to 31.12.2015, subject to petitioner filing an undertaking before the Rent Controller – cum – Principal Junior Civil Judge, Kakinada that he would vacate the R.C. schedule premises by the said date and also continue to pay the rents for the said premises till the date of eviction, within a period of three (03) weeks from the date of receipt of a copy of this order.

15. In default of filing such an undertaking or of paying rents as directed herein, the decree of eviction passed by the Rent Controller and the appellate authority shall be liable to be executed immediately.

16. Miscellaneous applications, pending if any in this Revision, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 10-09-2015

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