

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.4665 of 2015

ORDER:

Heard the learned counsel for petitioner and the learned counsel for respondent.

2. The petitioner herein is a tenant in respect of house bearing No.3-5-478, admeasuring 99 square yards, situated at Vittalwadi, Hyderabad. The respondent herein filed R.C.No.97 of 2007 on the file of the Court of I Additional Rent Controller, City Small Causes Court, Hyderabad (for short, trial Court) seeking eviction of the petitioner on the grounds of willful default, ceasing to occupy the premises and *bona fide* requirement. The respondent filed a counter-affidavit denying the averments of the petition. After considering the documents and oral evidence, the trial Court upheld the claim for *bona fide* requirement and ordered eviction of the petitioner, by order dated 31.12.2012. Challenging the said order, the petitioner herein filed R.A.No.11 of 2013 on the file of the Court of the Chief Judge, City Small Causes Court, Hyderabad (for short, appellate Court). The appellate Court concurred with the finding recorded by the trial Court and dismissed the appeal, by order dated 22.06.2015, granting four months time to the petitioner to vacate the petition schedule property. Challenging the concurrent finding recorded by the appellate Court, the present Civil Revision Petition is filed.

3. The learned counsel for the petitioner submitted that at no point of time, the respondent collected rents and the alleged *bona fide* requirement was not correct, as the respondent has been residing in Nanded for several years and even after his retirement in 1998, he continued to reside there. The ground raised by the respondent is invented only for the purpose of the present proceedings.

4. The trial Court opined that the respondent herein has no other house except the petition schedule property in Hyderabad and he has been repeatedly requesting the petitioner to vacate the petition schedule property and ultimately he issued a notice also, but the same was returned with an endorsement "unclaimed". In the facts and circumstances of the case, the trial Court agreed with the ground raised by the respondent of his *bona fide* requirement.

5. The appellate Court noticed that the petition schedule property was originally obtained on rent by the father of the petitioner herein from one Smt.Kamala Bai, the grandmother of the respondent, in the year 1955. The petitioner has been continuing after the death of his father. With regard to the *bona fide* requirement, the appellate Court held as follows:

"22. The respondent is a retired Government servant. While he was in service he was at Nanded. During his absence in Hyderabad the affairs of the petition schedule property were looked after by his brother Sri Narendra Singh. It was according to the respondent that after his retirement he wants to settle at Hyderabad. Prior to the filing of the present rent control case a legal notice (Ex.P-1) was issued on the appellant by the respondent calling upon him to vacate the petition schedule property. In the said notice at Para-4, the respondent's intention to shift his residence to Hyderabad was clearly stated. Emphasizing the need of the petition schedule property for his '*personal occupation*' he got issued Ex.P-1 notice to the appellant through his counsel prior to the filing of the present R.C.

23. When the landlord feels that the petition schedule property is required for his personal occupation, and gives prior notice to the tenant asking him to vacate the petition schedule property to enable him to occupy the same, tenant resisting such claim of the landlord without establishing that the landlord has got other residential properties in Hyderabad other than the petition schedule property is quite unjust and unreasonable. In the cross examination of PW-1 dated 23.8.2011 it is elicited that he has got three mulgies and one house. The suggestion put to PW-1 that he is owning another property bearing No.3-4-740, Narayanaguda, Hyderabad has been denied categorically. The appellant though has denied that the requirement of the petition schedule property pleaded by the respondent is not bonafide, is not able to establish his contention. No document is filed by the appellant to show that the respondent has got other residential premises in twin cities other than the petition schedule properties. The Rent Controller on thorough appreciation of the evidence on record has rightly observed that the appellant is not able to prove that the respondent does not require

the petition schedule property for his '*personal occupation*'. In the cross examination of appellant it is said that he does not know whether the respondent has got any other house in Hyderabad apart from the petition schedule property. The above admission made by the appellant in his cross examination itself is suffice to hold that he is unable to place substantial material in proof of denial of requirement of petition schedule property pleaded by the respondent for his '*personal occupation*'. The findings recorded by the Rent Controller on the ground of '*bonafide requirement*' needs no intervention as such findings are given after thorough appreciation of the evidence on record. Since no cross appeal is filed by the respondent questioning the findings recorded by the Rent Controller on the grounds of '*wilful default*' and '*cease to occupy the petition schedule property*' this court does not want to interfere with the findings recorded by the Rent Controller on the above mentioned grounds."

6. I have carefully perused the above findings recorded by the trial Court as well as the appellate Court, and in view of the concurrent findings recorded by the both the Courts below on the basis of the evidence adduced before them, I do not see any ground to interfere with the said findings and therefore, the Civil Revision Petition is dismissed. However, the petitioner is given time to vacate the petition schedule property by 28.02.2016. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 24.11.2015

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