

HON'BLE SRI JUSTICE R. SUBHASH REDDY

Civil Revision Petition No.4016 of 2015

ORDER:

This Civil Revision Petition, under Section 22 of the Andhra Pradesh Buildings (Lease, Rent & Eviction) Control Act, 1960 (for short "the Act") is filed aggrieved by the order of eviction dated 23.09.2013 passed by the II Additional Rent Controller, City Small Causes Court, Hyderabad in R.C.No.276 of 2010, as confirmed by the Additional Chief Judge, City Small Causes Court, Hyderabad in R.A.No.210 of 2013 by judgment dated 31.07.2015.

2. The respondent herein filed R.C.No.276 of 2010 under Section 10(2)(i) of the Act seeking eviction of the petitioner on the ground of willful default in payment of rents. She is the owner of the petition schedule premises bearing No.14-6-356 situated at Chudi Bazar, consisting of one room on the 2nd floor of the said premises. The petitioner herein has taken the said premises on rent on a monthly rent of Rs.225/-. During the year 1995, on the ground that respondent-landlady is not receiving rents, petitioner filed R.C.No.596 of 1995 on the file of the II Additional Rent Controller and she was depositing monthly rents to the credit of the said R.C. The respondent-landlady has filed R.C.No.362 of 1998 on the ground of willful default in payment of rents and creating nuisance, which was allowed by the II Additional Rent Controller and, on appeal, it was reversed and the appeal filed by the appellant herein on the file of the Additional Chief Judge, City Small Causes Court, Hyderabad, was allowed by judgment dated 09.12.2014 in R.A.No.145 of 2000.

3. For subsequent period, claiming willful default, respondent-landlady filed R.C.No.276 of 2010 for eviction, alleging that petitioner stopped paying rents from April, 2008 to July, 2010 and total arrears of rent due is Rs.6,300/-.

4. Before the Rent Controller, while referring to the earlier proceedings, it is stated by the petitioner herein that after earlier

appeal of the respondent-landlady, i.e. R.A.No.145 of 2000 is allowed, she has paid rent directly to the respondent as per the advice of *basthi* elders, but, receipts were not given by the respondent; thus by playing fraud the R.C., has been filed. The petitioner herein pleaded that there was no default for the period from 01.04.2008 to 31.08.2010 and a sum of Rs.6,300/-, as alleged by the respondent, is not due.

5. Before the Rent Controller, respondent herein was examined as P.W.1 and on her behalf Exs.P.1 to P.3 were filed. Appellant was examined as R.W.1 and on her behalf R.Ws.2 and 3 were examined apart from marking Exs.R.1 to R.26.

6. The Rent Controller, by recording a finding that there is willful default in payment of rents for the period from August, 2008, ordered eviction by order dated 23.09.2013. As against the same, matter was carried in appeal vide R.A.No.210 of 2013, which was dismissed by judgment and decree dated 31.07.2015, confirming the order of eviction passed by the Rent Controller.

7. Heard Sri Bankatlal Mandhani, learned counsel for the petitioner and Sri Manjari S. Ganu, learned counsel for the respondent-caveator and perused the material on record.

8. In this Civil Revision Petition, it is submitted by the learned counsel for the petitioner that the respondent-landlady has been trying to evict the petitioner herein on one ground or the other; though there was no default in payment of rent at all, the Rent Controller as well as the Additional Chief Judge have erroneously recorded finding of default in payment of rents from April, 2008 to July, 2010 and ordered eviction of the petitioner. It is further submitted that subsequent to allowing of R.A., filed by the petitioner against the earlier order of eviction passed by the Rent Controller, on the directive of *basthi* elders, petitioner started paying rents to the respondent directly, but the respondent did not issue rental receipts and has filed R.C.No.276 of 2010 by making false allegations.

9. On the other hand, it is submitted by the learned counsel for the respondent-landlady that there is clear default in payment of rent in the case on hand by the petitioner. It is further submitted that having filed R.C., earlier for deposit of rent under Section 8(4) of the Act, there is no reason for not paying rents to the respondent for the period from April, 2008 to July, 2010 and the allegation of the petitioner that she was paying rent directly to the respondent is false and in the absence of any evidence in support of such claim made by the petitioner, the primary and appellate Tribunals appreciated the evidence on record correctly and ordered eviction of the petitioner.

10. In this case, jural relationship of landlord and tenant between the parties is not in dispute. It is also not in dispute that petitioner, on earlier occasion, alleging that respondent-landlady was not receiving rents, has filed R.C.No.596 of 1995 on the file of the II Additional Rent Controller under Section 8 of the Act. It is true that, in earlier round of litigation, eviction ordered by the primary Tribunal is reversed by the appellate Tribunal. But, at the same time, it is the specific allegation of the respondent that there is willful default in payment of rents by the petitioner from April, 2008 to July, 2010 till filing of the R.C. The only defence of the petitioner is that she has been paying rents to the respondent directly, but the same is specifically denied by the respondent. In the absence of any material in such claim of the petitioner, the primary as well as the appellate Tribunals rightly disbelieved the said claim and recorded findings that petitioner committed willful default in payment of rents. Subsequently, petitioner tried to send rent through money order, but such attempt has been made only after filing of eviction petition; therefore the said documentary evidence, is of no help to the petitioner. In any event, having filed R.C., earlier for deposit of rent under Section 8(4) of the Act, the version of the petitioner that on the advice of *basthi* elders she was paying rent to the respondent directly, is not believable.

As much as the concurrent findings recorded to that effect that petitioner committed default in payment of rents are in consonance with the oral and documentary evidence on record, there are no

grounds to interfere with the impugned orders in exercise of jurisdiction under Section 22 of the Act.

11. Civil Revision Petition is accordingly dismissed. No order as to costs. However, as request is made seeking grant of time to vacate the premises, for the purpose of securing alternative accommodation, four months time from today is granted to the petitioner to vacate the petition schedule premises, subject to the condition of petitioner filing an undertaking to the said effect within two weeks from today before the Registry of this Court.

As a sequel, miscellaneous petitions if any pending in the Civil Revision Petition stand closed.

R. SUBHASH REDDY, J

October 1, 2015

MRR

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

Civil Revision Petition Nos.3778 & 3827 of 2015

Between:

Sher Yar Khan ...Petitioner

and

Fazalunnisa Begum and others ... Respondents

Date of order pronounced: 18th September, 2015

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HON'BLE SRI JUSTICE R. SUBHASH REDDY _____

1. Whether Reporters of Local newspapers :
may be allowed to see the order?
2. Whether the copies of order may be :
marked to Law Reporters/Journals?
3. Whether His Lordship wishes to :
see the fair copy of the order?