

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.3438 of 2015

ORDER :

This civil revision petition is filed by the tenant under Section 22 of the A.P.Buildings (Lease, Rent and Eviction) Control Act, 1960, aggrieved by the order passed by the Additional Chief Judge, City Small Causes Court, Hyderabad, in R.A.No.94 of 2014.

The respondent-landlord has filed eviction petition in R.C.No.333 of 2011 against the petitioner-tenant before the III Additional Rent Controller, Hyderabad, seeking eviction on the grounds of willful default and requirement of petition schedule property for additional accommodation to start a pre-school by his wife with the assistance of his sister-in-law. The primary Tribunal has ordered eviction only on the ground of personal requirement and the plea of willful default is rejected.

Not satisfied with the findings given by the trial Court on the ground of willful default, the respondent-landlord has preferred appeal in R.A.No.94 of 2011 and by impugned order, the learned Additional Chief Judge, City Small Causes Court, Hyderabad, has ordered eviction on the ground of willful default also. As against the same, this civil revision petition is filed.

Heard learned counsel for the parties.

In this civil revision petition, it is contended by the learned counsel for petitioner that though there is no

evidence on record in proof of plea of the respondent that petitioner has committed willful default in payment of rents, the appellate Tribunal has reversed the findings of Rent Controller and ordered eviction on the ground of willful default also.

In this case, it is to be noticed that the respondent-landlord has filed eviction petition on two grounds, namely, willful default and bona fide requirement. It is the specific plea of respondent-landlord that as per the rental deed under Ex.P-2, an amount of Rs.10,000/- was paid by the tenant as deposit and the same shall be refunded to him at the time of vacating the premises, but the trial Court has made an observation that the alleged rent due for the period from February 2011 to May 2011 will come to Rs.9,600/-, and as such, the same can be adjusted from the advance amount of Rs.10,000/- lying with the respondent-landlord. When it was the specific case of respondent-landlord that petitioner-tenant has committed willful default, without any evidence on record in proof of payment of rent for the aforesaid period, merely on the ground that there is a deposit of Rs.10,000/-, the Rent Controller has refused the plea of willful default. From the evidence, it is clear that the petitioner-tenant did not file any proof to show that he has paid rents for four months i.e. from February 2011 to May 2011. In view of the specific recital in Ex.P-2 to the effect that the tenant has paid Rs.10,000/- towards deposit, which shall not be

adjusted towards rent, but is to be refunded only at the time of delivery of vacant possession, it is rightly held by the appellate Tribunal that the petitioner-tenant has committed default in payment of rent also. In that view of the matter, this Court does not find any merit in this civil revision petition, warranting interference.

Accordingly, this civil revision petition is dismissed.

However, four months time is granted to the petitioner-tenant to vacate the 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, undertaking to vacate the premises within four months. If no such undertaking is filed, it is open to the respondent to execute the order of eviction.

Pending miscellaneous applications, if any, shall stand closed. No costs.

R. SUBHASH REDDY, J

4th September 2015

ajr