

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CIVIL REVISION PETITION NO. 2444 of 2014

ORDER:

This revision is preferred under Section 22 of the A.P. Building Lease and Rent Control Act, 1960, by a tenant of a non-residential building at Kakinada. The mother-in-law of the first respondent herein was the original owner of the building by name Smt. Munjuluri Subbamma alias Venkata Subbamma. The second petitioner is the grand son of the said Smt. Subbamma. Smt. Subbamma executed a will on 10.12.2004 bequeathing four plots and six shops situate in Swathi Enclave, Gandhinagar, Kakinada in favour of the first petitioner herein creating life estate and the vested remainder in favour of the grand son, the second respondent herein. The said Smt. Subbamma died on 07.09.2005. The petitioner herein has taken the scheduled premises on lease from Smt. Subbamma on a monthly rent of Rs.1,200/- to be increased by Rs.50/- bi-annually. A registered lease deed was executed on 31.01.2001. As at the time when the petition has been instituted by the respondents herein seeking eviction of the present petitioner, the rent payable per month has worked out to Rs.1,500/-. The petitioner herein is alleged to have committed default in payment of rents from 01.05.2007 onwards and consequently by February, 2008, when the petition is filed for eviction, he has fallen in arrears of rent payable by ten months. Coming to know of the eviction petition initiated, the petitioner sent by post two demand drafts, value of which worked out to Rs.1,500/- and the petitioner has not enclosed any letter. The demand draft sent by the petitioner was received without prejudice. The respondents also wanted the shop room for their personal occupation, as they wanted to

open a garment shop and carry on business. The second respondent is stated to have studied upto intermediate and he has experience to run a garment shop. During the course of trial, the husband of the first respondent herein was examined as P.W.1 and another individual as P.W.2 and got marked Exs.A-1 to A-6. The petitioner herein got examined as P.W-1 and also examined another individual as R.W-2, but no documents have been filed. The learned Rent Controller dismissed the petition holding that the petitioners before him have not made out a case for eviction of the petitioner herein. Then, the respondents carried the matter in appeal before the Rent Control Appellate Authority in R.C.A.No.7 of 2011. By judgment dated 13.03.2014, the said R.C.A No.7 of 2011 has been allowed. In paragraph 13 of the judgment, reasons are assigned as to why the petitioner herein is held to be in arrears of rents. The other plea that the shop room is needed for the respondents herein to carry on garments business has also been upheld.

It is not in dispute that, for the past over 14 years, the petitioner herein was the tenant carrying on some refrigeration and electrical works in the shop room. The petitioner has filed an affidavit undertaking to vacate the schedule premises within six months from 16.03.2015. In view of the undertaking, the petitioner is granted time to quietly vacate and deliver vacant possession of the shop room without causing any loss or damage to it, latest by 21.09.2015. It is also appropriate that the petitioner shall deposit each month's rent either before the Rent Controller or remit the same by way of a demand draft to the respondents on or before 5th of every succeeding month. Any failure to remit the same for two consecutive months would result in the time granted by this Court now being nullified and the petitioner becomes liable to be evicted by getting the decree executed. In case,

the petitioner continues to pay the monthly rent, no execution petition shall be entertained for his eviction before 21.09.2015.

However, if there are any arrears payable to the respondents herein, upon a calculation memo in that regard being furnished to the petitioner by the respondents by way of a registered notice, from the date of receipt of the said notice, the petitioner shall clear the same within thirty days.

With this, the civil revision petition stands disposed of, after hearing the learned counsel for the respondents.

Consequently, miscellaneous applications pending shall also stand closed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

19.03.2015
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