

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION Nos.3271, 3381 & 3388 of 2015

COMMON ORDER:

These three Civil Revision Petitions are filed by the respondent in R.C.No.546 of 2006 on the file of the IV Additional Rent Controller, Hyderabad, as such, they are heard together and disposed of by this common order.

2. C.R.P.No.3381 of 2015 is filed under Section 22 of the A.P. Buildings (Lease, Rent & Eviction) Control Act, 1960 (for short "the Act") against the order dated 19.06.2015 passed in R.A.No.9 of 2011 by the Additional Chief Judge, City Small Causes Court, Hyderabad, whereas C.R.P.Nos.3271 and 3388 of 2015 are filed against the order dated 19.06.2015 passed in I.A.Nos.117 and 196 of 2014 respectively in the said R.A.

3. For the sake of convenience, I refer to the facts that arise for consideration in C.R.P.No.3381 of 2015.

4. The respondent herein, a practicing Advocate aged about 66 years, is the owner of the petition schedule premises in R.C.No.546 of 2006 on the file of the IV Additional Rent Controller, Hyderabad. He has filed the said R.C., seeking eviction of the petitioner herein on the grounds of willful default in payment of rent, willful default in payment of municipal tax, bona fide personal occupation and also

on account of senior citizenship. The Primary Tribunal, by order dated 23.11.2010, ordered eviction of the petitioner on the grounds of willful default in payment of municipal tax, bona fide personal occupation and on account of senior citizenship of the respondent herein. The ground of willful default in payment of rent as pleaded by the respondent was negated, as such, he has filed cross-objections vide S.R.No.471 of 2011, seeking to reverse the finding of willful default in payment of rent.

5. The appeal filed by the petitioner herein against the order dated 23.11.2010 in R.C.No.546 of 2006, is dismissed by order dated 19.06.2015, which is impugned herein, confirming the eviction on the grounds of willful default in payment of municipal tax and bona fide personal requirement. The cross-objections filed by the respondent herein against rejection of the ground of willful default in payment of rent were also dismissed. At the same time, the appellate Tribunal reversed the order of the primary Tribunal insofar as the ground of senior citizenship of the respondent herein is concerned. Thus, the appellate Tribunal has confirmed the eviction on the grounds of willful default in payment of municipal tax and bona fide personal requirement.

6. Heard Sri R. Achutanand, learned counsel for the petitioner and Sri B.V. Subbaiah, learned senior counsel appearing for the respondent and perused the material on

record.

7. It is mainly contended by the learned counsel for the petitioner that though I.A.Nos.117 and 196 of 2014 are filed in R.A.No.9 of 2011, to receive documents as additional evidence and also to call for P.W.1 for cross-examination to confront the same with the documentary evidence, the said applications are dismissed without recording any valid reasons. It is further contended that inasmuch as the respondent has got the tenant of other non-residential premises evicted, as such, he is not entitled to seek eviction of the petitioner from the petition schedule premises. It is also contended that though there was no liability on the petitioner for payment of municipal tax, the primary as well as the appellate Tribunals, by misconstruing the evidence, ordered eviction of the petitioner.

8. On the other hand, it is submitted by the learned counsel for the respondent that the petitioner was paying municipal tax earlier and thereafter he defaulted paying it. It is further submitted that the respondent is a practicing Advocate running his office in the 3rd floor in Trade Mark Center, Siddiamber Bazar and due to his old age, it has become difficult for him to continue his office in the said premises and as much as the petition schedule premises is suitable for his occupation, he needs the same for his bona fide personal occupation.

9. The Primary as well as the Appellate Tribunal rejected the ground of willful default in payment of rent as pleaded by the respondent. Coming to the payment of municipal tax, from the evidence on record, it is clear that the petitioner has paid municipal tax in the year 2000 and there is further evidence to show that he has paid municipal tax from the year 2005-06 till 31.03.2011. However, for the period from 2000-01 to 2004-05, it appears he has not paid the municipal tax. The petitioner did not produce any evidence to show that he paid municipal tax even for the aforesaid period. In the judgments in the case of *Fair Price Cloth Stores, Hyderabad v.*

Dr. Malikarnaz Mohammed^[1] and *Smt. Kanta Bai Asawa*
and others v. Kranti Swaroop Machine Tools^[2], this Court has held that when the tenant has agreed for payment of municipal tax and if there is default in payment of municipal tax, it is nothing but a default in payment of rent and order of eviction can be passed on the said ground. The aforesaid judgments would support the case of the respondent. Even with regard to the plea of bona fide personal requirement, from the evidence on record, it is clear that the respondent who is a practicing Advocate is aged about 66 years and running his office from the 3rd floor of the premises in Trade Mark Center, Siddiamber Bazar, Hyderabad. It is also clear from the evidence that

the petition schedule premises is suitable to him for running Advocate's office. It is proved from the evidence that respondent is a senior citizen and is running Advocate's office from 3rd floor of another building. In that view of the matter, it is evident that he requires the petition schedule premises for his personal occupation. Additional evidence is filed to show that respondent has got possession of another premises by evicting the tenant therein, but it is not the case of the petitioner herein that respondent has occupied such premises. Merely because the respondent has got the tenant of other premises evicted, it would not come in his way to seek eviction of the petitioner herein from the petition schedule premises, more so when it is proved that the respondent is in need of the petition schedule premises to run Advocate's office. Further, it is not for the petitioner to dictate terms to the respondent who is the landlord and suggest him as to which of the premises would suit his requirement. Furthermore, in the judgment in the case of *Meenal Eknath Kshirsagar (Mrs) v. Traders and Agencies and another* ^[3], the Hon'ble Supreme Court has held that is for the landlord to decide how and in what manner he should live and he is the best judge of his residential requirement. In the said judgment, it is further held that it is not for the courts to adjudicate the needs of the landlord. Having regard to the concurrent findings

recorded by the primary and appellate Tribunals on the grounds of default in payment of municipal tax and also bona fide personal requirement, I am of the view that there is no merit in C.R.P.No.3381 of 2015 so as to interfere with the impugned order.

10. C.R.P.No.3381 of 2015 is accordingly dismissed and for the reasons alike C.R.P.Nos.3271 and 3388 of 2015 are also dismissed. However, as it is pleaded that the petitioner needs some time to secure alternative accommodation, petitioner is granted four months from today to vacate the petition schedule premises in R.C.No.546 of 2006 on the file of the IV Additional Rent Controller, Hyderabad, subject to his filing an undertaking in the Registry of this Court within a period of two weeks from today undertaking to vacate the petition schedule premises within the time referred above. No order as to costs.

As a sequel, miscellaneous petitions if any pending in the C.R.Ps., stand closed.

R. SUBHASH REDDY, J

18th September, 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.3271, 3381 & 3388 of 2015

Between:

Sumeet Pal Singh and others ...

Petitioners

And

T.N.V. Ravi Kumar ...

Respondent

DATE OF JUDGMENT PRONOUNCED: 28th August,
2015

HON'BLE SRI JUSTICE R. SUBHASH REDDY

- 1 Whether Reporters of Local newspapers may be allowed to see the judgment?
-
- 2 Whether the copies of judgment may be marked to Law Reporters/Journals
-
- 3 Whether Their Ladyship/Lordship wish to see the fair copy of the judgment?

1

—

1

1

1

-
-
-
-

[\[1\]](#) 2014 (1) ALD 292
[\[2\]](#) 1993 (2) ALT 582
[\[3\]](#) (1996) 5 SCC 344