

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.4272 OF 2016

ORDER:

The Civil Revision Petition is filed against the order dated 08.07.2016 passed in R.C.A. No.03 of 2013 by the Rent Control Appellate Authority-cum-Principal Senior Civil Judge at Kakinada confirming the order and decree dated 05.12.2012 passed in R.C.C. No.40 of 2011 by the Rent Controller-cum-Principal Junior Civil Judge, Kakindada.

2) Heard learned counsel for the revision petitioner and learned counsel for the respondent. Perused the material on record.

3) The revision petitioner is the tenant under the revision respondent. The revision respondent maintained R.C.C. No.40 of 2011 for eviction of the tenant on two grounds viz., one is for bonafide requirement and the other is for willful default of rent and for personal occupation. The rent controller, allowed the case, vide order dated 05.12.2012 passed order of eviction on the ground of bonafide requirement by disbelieving the alleged wilfull default.

4) The evidence on record shows the landlord got several shops and there is also an admission but for to say he did not establish any of those shops are vacant. It is on that ground as allegedly not properly considered in passing the order of eviction on the so-called bonafide requirement, the tenant maintained the appeal i.e., R.C.A. No.03 of 2013, no doubt, went unsuccessful vide judgment dated 08.07.2016. Wherein it is observed that tenant cannot dictate terms and it is for the landlord to chose which of the shops is convenient to him and even coming to one of the

shops with name and style of business running by another tenant as Durga Bhavani Garments sought for eviction for bonafide requirement and there was a compromise with the tenant and inducted Jaipur Pearls and Beads, consequently that pearls shop occupied the premises and it is not lying vacant to occupy. In fact, the Tribunal put the burden on the tenant further instead of considering the shifting of the same on the landlord. No doubt, the same is confirmed in the appeal as it is for the landlord to produce the record for the best evidence available with him otherwise any of the premises claimed undisputedly belongs to him and lying vacant and not suitable for the proposed medical shop business of the sons of the landlord. Leave about no record produced regarding any of the sons having pharmacy qualification with any pharmacy certificate for entitlement to the medical shop licence and to run.

5) However, in the course of hearing when sought for interference in the revision against the concurrent finding of the Courts below; the landlord and tenant represented by respective counsel came to an understanding and requested this Court while confirming the current findings only granted one month time to the tenant from today to continue and meantime to secure any alternative accommodation and vacate by end of September, 2017, however by paying same amount of monthly rent towards damages for use and occupation from today onwards for every month and in the event of the failure of the tenant to vacate by end of September, 2017 to execute the same by virtue of this order also without any necessity of filing fresh eviction petition. Accordingly, the said

submission is recorded and the revision is disposed of by confirming the eviction order. No order as to costs.

6) Consequently, pending miscellaneous petitions, if any, shall stand dismissed.

Dr.JUSTICE B. SIVA SANKARA RAO

Dt.17.09.2016
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