

THE HON'BLE SRI JUSTICE S.V.BHATT
CIVIL REVISION PETITION No.3881 of 2016

ORDER:

Heard Mr. Vedula Srinivas for petitioner and Mr. P.S. Rajasekhar for respondents.

2. The revision arises under the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short 'the Act'). Respondents filed RCC.No.25 of 2010 under Section 10 (2) of the Act seeking eviction of revision petitioner on the ground of default in payment of rent to respondents. The period of default is from June 2007 till RCC was filed on 22.10.2010. The revision petitioner has contested the RCC principally on the ground that the rent was paid to first respondent's wife's brother (brother-in-law) and on account of *inter se* dispute in O.S.No.67 of 2011, the revision petitioner was tendering the rent to the person who was collecting the rent earlier and therefore, there is no default in payment of rent.

3. The stand in its entirety taken by the revision petitioner is not adverted to for the simple reason that non-payment of rent to respondents is admitted but as pleaded payment to any other person must be established by the tenant/revision petitioner. Learned counsel fairly states that there is no evidence on relevant fact pleaded by tenant/revision petitioner. The Rent Controller framed the following points for consideration:

1. Whether the respondent committed willful default in payment of rents?

2. Whether the petitioners are entitled for eviction of respondent from the petition schedule building as prayed for?
3. To what relief?

Finally after holding against tenant on the above points, the RCC was ordered. The revision petitioner herein filed RCA.No.2 of 2015 in the Court of Senior Civil Judge, Kurnool. On 01.06.2016, the appeal is also dismissed.

4. Mr. Vedula Srinivas has concentrated on the illegality of findings recorded by the trial Court as well as the lower appellate Court but could not show how the findings are vitiated for any reason to entertain revision under Section 22 of the Act. Except the above point, no other ground is urged.

5. With the assistance of learned counsel for petitioner, the findings recorded by the lower appellate Court are independently considered and examined by this Court. After perusing the findings recorded, this Court is of the view that, particularly, having regard to the nature of defence pleaded by the revision petitioner and failure to adduce evidence thereon, no ground for admission under Section 22 of the Act is made out. The revision fails.

6. The revision petitioner has placed on record the affidavit dated 21.09.2016. The affidavit is taken on record and as requested by the revision petitioner, time till 31.12.2016, for vacation and handing over possession of the subject matter, is granted. The revision petitioner undertakes to this Court through affidavit dated 21.09.2016 to deliver vacant possession on or before 31.12.2016. The revision petitioner

continues to pay the agreed rent till 31.12.2016 or till the date of vacation, whichever is earlier.

The civil revision petition is dismissed accordingly by granting time till 31.12.2016. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

September 23, 2016
DSK

S. V. BHATT, J

