

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CRP No.565 of 2016

Date:03.06.2016

Between:

Ahmed Najamuddin (died) and others.

... Petitioners.

AND

Smt. Durga Bai.

...Respondent.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

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ORDER:

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This revision is preferred questioning Judgment dated 17-12-2015 in R.C.A.No.1/2012 on the file of Senior Civil Judge, Zaheerabad, Medak whereunder Order dated 20-01-2012 in RCC.No.3/1987 on the file of Rent Controller-cum-Senior Civil Judge, Zaheerabad, Medak was confirmed.

2. Revision Petitioners herein are respondents i.e., legal representatives of the deceased-tenant in R.C.C.No.3/1987 and the respondent herein is landlady. The respondent herein filed R.C.C. No.3/1987 invoking Section 10 (3) (a) (iii) (b) of A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 (hereinafter referred to as 'Rent Control Act') on the ground of personal requirement and the Rent Controller allowed the application and ordered eviction which was confirmed by the Appellate Authority. Now aggrieved by the findings of

the Rent Controller-Appellate Authority, present revision is preferred by the unsuccessful legal representatives of the deceased-tenant.

3. Revision petitioners herein resisted the eviction petition mainly on the ground that the tenancy was cancelled on 26-01-1976 under Ex.B7 as the husband of respondent herein sold the schedule property under an agreement of sale dated 20-12-1975 and executed a simple sale deed dated 26-01-1976 for valuable consideration and that there is no jural relationship of landlord and tenant. Incidentally, they also contended that request of the respondent for personal occupation is not a genuine request. Initially, the eviction petition was dismissed by order dated 23-06-1994 and the landlady preferred R.C.A.No.1/1994 to the Appellate Authority and the said appeal was allowed on 06-07-2001 and challenging the said order, the tenant preferred CRP No.3943/2001 and this Court remanded the matter to the Rent Controller for fresh disposal permitting both parties to adduce evidence in support of their respective contentions and after remand, the Rent Controller allowed the parties to adduce evidence and the revision petitioners herein examined R.W.2 and got marked Exs.B8 to B13 and on a consideration of oral and documentary evidence of both parties, Rent Controller held that there is jural relationship of landlord and tenant and the denial of title by the revision petitioners herein is not a bonafide denial and the request of the respondent for personal occupation is a bonafide one, therefore ordered for eviction. These findings were upheld by the Appellate Authority.

4. Heard both sides.

5. Learned Senior Advocate for revision petitioners vehemently contended that both the Rent Controller and Appellate Authority erred in not properly appreciating Exs.B8 to B10, which would clearly establish that there is no jural relationship of landlord and tenant after 26-01-1976. He submitted that there is clinching evidence to show that late Hari Mohan Lal executed documents under Ex.B8, B10 & B12 and both the Courts committed error in invoking Section 73 of the Indian Evidence Act,

while appreciating these documents.

He further submitted that learned Rent Controller in a cryptic way discarded these documents and recorded a finding that there is jural relationship of landlord and tenant, ignoring these important documents and the Appellate Authority confirmed the said finding without reappraisal of the evidence, therefore the orders passed by the Rent Controller and Appellate Authority are liable to be set aside.

6. On the other hand, Advocate for respondent-landlady herein submitted that the relationship of landlord and tenant commenced with Ex.A3 and both the Rent Controller and Appellate Authority, on a proper appreciation of oral and documentary evidence, rightly recorded a finding that there is jural relationship of landlord and tenant. He further submitted that revisional powers under Section 22 of Act are very limited and there are no grounds to interfere with the findings recorded by the Courts below. He further submitted that revision petitioners have not taken any steps to send the documents to any hand writing expert to prove their genuineness and both the Courts have rightly discarded those documents and that there are no grounds to interfere.

7. Now the point that would arise for my consideration in this revision is whether Judgment and Order of Courts below are legal, proper and correct?

8. **Point:-**Even according to petitioners, they were inducted into the property only in the capacity of tenants, but later on i.e., on 26-01-1976, the lease was cancelled and the property was sold in their favour. Admittedly, there is no registered document conveying the schedule property in favour of the petitioners or the deceased- tenant. Both parties adduced evidence in support of their respective contentions. The trial Court and appellate Court have elaborately discussed both oral and documentary evidence of both parties in recording findings on the issues involved in the matter. The main issue is with regard to jural relationship of landlord and tenant. One of the contentions of the revision

petitioners is that Rent Controller decided this point in a cryptic manner and not properly appreciated the evidence on record, but as seen from the order of the learned Rent Controller, this objection of the petitioners cannot be accepted. The dispute relating to jural relationship of landlord and tenant was discussed in Para Nos.11, 12, 13, 14, 15 & 16 and a detailed analysis for the contentions and rival contentions of both parties was recorded and only on consideration of evidence of both parties with reference to this point, the learned Rent Controller answered the same against the petitioners herein.

9. As rightly pointed out by Advocate for respondent herein the powers of this Court in a revision are very limited. As per Section 22 of the Act, this Court has power to call for records to examine them to satisfy as to the legality, regularity or propriety of the order.

This Court cannot reappraise the evidence and cannot interfere with the findings of the trial Court and the appellate Court unless those findings are perverse and based on no evidence or based on irrelevant consideration. The only objection raised in the grounds is that the Rent Controller recorded finding on jural relationship in a cryptic manner, but that objection is not at all tenable and as seen from the record, a detailed order was passed in respect of jural relationship of landlord and tenant. In fact the learned Rent Controller dealt the matter points wise and as a first point, he has considered the jural relationship of landlord and tenant thereafter, about the bonafide requirement and latter about the denial of title. For all these points, the Rent Controller has appreciated evidence of both parties and recorded findings with sound reasoning. I do not find any wrong in appreciation of evidence nor any jurisdictional error nor any perversity in the findings of both trial Court and appellate Court. When the findings are based on material evidence, this Court under Section 22 of the Act cannot interfere with such findings based on sound reasoning.

10. For these reasons, I am of the view that the revision is devoid of merits and that there are no grounds to interfere with the findings recorded

by the trial Court and the appellate Court. Point is accordingly answered.

11. In the result, revision is dismissed. However, revision petitioners are granted two months' time to vacate the premises.

No costs.

12. As a sequel, miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand dismissed.

JUSTICE S. RAVI KUMAR

Date:03.06.2016

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