

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

—  
**CIVIL REVISION PETITION No.59 OF 2016**

**ORDER:**

Heard the learned counsel for petitioners and the learned counsel for respondents.

2. The petitioners herein are tenants and the respondents herein are landlords. The first respondent herein filed R.C.No.278 of 2007 on the file of the Court of the IV Additional Rent Controller, Hyderabad (for short, lower Court) seeking eviction of the petitioners from the petition schedule mulgi bearing door No.21-2-517 and 518, situated at Mitti-kasher, Charkaman, Hyderabad on the ground of willful default and bonafide requirement. The case was contested by the petitioners herein as respondents by filing a detailed counter.

3. The lower Court framed the following issues.

“1. Whether the respondents have committed default in payment of monthly rents in respect of the petition schedule premises and if so whether the default can be construed a willful?

2. Whether the requirement of the petitioner in respect of the petition schedule premises is bonafide?

3. Whether the respondents have secured alternative accommodation and if so whether they are liable to be evicted from the petition schedule premises?

4. To what relief?”

4. On behalf of the respondents, the first respondent herein was examined as P.W.1 and marked Exs.P.1 to P.8. On behalf of the petitioners, second petitioner was examined as R.W.1 and marked Exs.R.1 to R.47.

5. The lower Court, on the basis of oral and documentary evidence, held that there was no willful default, but the requirement of the first respondent herein as additional accommodation is bonafide, by its order dated 29.12.2011. Challenging the said order, the petitioners herein filed

R.A.No.33 of 2012 on the file of the Court of the Additional Chief Judge, City Small Causes Court, Hyderabad (for short, lower appellate Court) and the same was dismissed, by order of the lower appellate Court dated 16.11.2015, confirming the finding recorded by the lower Court. The second respondent herein also filed cross objections vide SR.No.182 of 2012 in R.A.No.33 of 2012 and the same were also dismissed. The present Civil Revision Petition is filed by the tenants challenging the order passed by the lower appellate Court dated 16.11.2015.

6. The lower appellate Court framed the following points for consideration.

- “1. Whether the Rent Controller had no jurisdiction to entertain the eviction petition of the landlord in view of substantial renovation of the petition schedule mulgi as alleged and contended by the tenants?
2. Whether the requirement of the landlord of petition schedule mulgi is bonafide or malafide?
3. Whether the tenants secured alternative accommodation during the subsistence of their lease with the landlord over the petition schedule mulgi?
4. Whether the business carried in the petition schedule mulgi was allotted to Manoj Kumar (R-4 of RC 278/07 and R-2 of this appeal/cross-objector) and to one Kamalabai, the mother of Manoj Kumar and other tenants as contended by that Manoj Kumar in his cross-objections?
5. Whether the order of the trial Court warrants any interference?
6. To what relief?”

7. On the basis of oral and documentary evidence, the lower appellate Court held the first point against the tenants and in favour of the landlords. While considering the issue with regard to bonafide requirement, the appellate Court noticed that the wife of the landlord is a medical practitioner and she was running a nursing home by the side of the petition schedule mulgi. She has been doing practice and she needs additional accommodation in view of the difficulty to the women patients belonging to the Marwadi community, Agarwal community and Muslim

community, who are waiting on the road due to lack of space. In view of the fractures to her both legs, she is unable to move from first floor to ground floor and therefore the landlord wants to install a lift, for which purpose, he required the petition schedule mulgi as additional accommodation. The lower appellate Court considered the said aspect and also the decisions cited before it and held that the bonafide requirement held by the lower Court has not warranted any interference.

8. The lower appellate Court also considered that the tenancy was initially commenced by the grandfather of the tenants and thereafter the father of the tenants continued the tenancy. The father of the tenants secured the alternative accommodation, and inspite of the same, the tenants have been continuing in the premises. Accordingly, the lower appellate Court held that the tenants secured alternative accommodation during the subsistence of their lease.

9. In view of the concurrent finding of fact by both the Courts below with regard to the bonafide requirement of the landlord, this Court is not inclined to entertain the present Civil Revision Petition. However, time is granted to the petitioners/tenants to vacate the premises upto 31.05.2016. The petitioners shall file an undertaking before the lower Court, within 15 days from the date of receipt of a copy of this order, undertaking to vacate the premises by 31.05.2016 and till such time they shall pay monthly rent. If the petitioners fail to file such undertaking within the time prescribed as above, it is open to the first respondent to take necessary steps for eviction of the petitioners in accordance with law.

10. Accordingly, the Civil Revision Petition is allowed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

---

**A.RAMALINGESWARA RAO, J**

Date: 27.01.2016  
TJMR