

HONOURABLE SRI JUSTICE RAJA ELANGO

CIVIL REVISION PETITION No.4413 OF 2016

ORDER:

The present civil revision petition is filed by the petitioner challenging order, dated 03.06.2012, passed in RCA No.2 of 2012 by the Senior Civil Judge, Ramachandrapuram, East Godvari District, wherein the learned Senior Civil Judge, dismissed the RCA by confirming the order, dated 30.11.2012, passed in R.C. No.1 of 2006 by the Rent Controller-cum-Principal Junior Civil Judge, Alamuru, East Godavari District.

Heard and perused the material available on record.

The revision petitioner is the tenant of a shop, belongs to the respondents. Originally, the said shop was fell to the share of the mother-in-law of the 1st respondent in their family partition, and subsequently, the same was gifted to the respondents by the mother-in-law of the 1st respondent through a registered gift settlement deed. In 1991, the said shop was leased out on an oral rental agreement to the petitioner on a monthly rent of Rs.600/- and thereafter, the rent was increased. In the month of May 2005, the 1st respondent requested the petitioner to vacate the said shop and deliver the vacant possession of the same to her, since she intends to do business in the said shop. The petitioner agreed for the same and requested time to secure another shop and the 1st respondent allowed him to stay till 31.12.2005, but the petitioner willfully failed to vacate the shop and filed a suit. Thereafter, he sent rents to the father-in-law of the 1st respondent and subsequently, stopped paying rents. Since the respondents are intending to do personal business, they got issued a notice to petitioner, which

was received by him, and thereafter, the petitioners filed the above RCC.

The petitioner filed a detailed counter in the said RCC. During the course of trial, the respondents examined PWs.1 and 2 and got marked Exs.P.1 to P.9. On the other hand the respondent examined Rs.1 to 3 and marked Exs.R1 to R13.

After considering the evidence adduced by both the parties, the learned Magistrate allowed the RCC and gave three months time to the petitioner to vacate the said shop, by observing as follows:

“Moreover in his cross- examination, R.W.1 clearly admitted that he initially obtained registration certificate to run Deepthi Fancy and general stores, then after 4 or 5 years he changed nature of business into Deepthi Electronics and ran electronics business till 2005 and then he converted his business into selling school bags under the name and style ‘Deepthi Bags’. He further admitted that he did not obtain fresh R.C. to run bags business in the schedule shop. All these admissions of R.W.1 to 3 categorically speak that the respondent initially took Plaintiff schedule shop to run Deepthi Musicals, but later he used the schedule shop to do other businesses than the business for which he took the petition schedule property on lease. Therefore, as per Section 10(2)(ii)(b) of the AP Rent Control Act, if the tenant used the building for a purpose other than that for which it was leased the landlord can claim for eviction. Therefore, in view of Section 10(2)(ii)(b) of the Act, also the Petitioners are entitled for eviction of the respondent from the Petition Schedule Property.”

Challenging the above, the petitioner filed RCA No.2 of 2012 before the Senior Civil Judge, Ramachandrapuram. The learned Senior Civil Judge, dismissed the appeal confirming the order of the Rent Controller-cum-Principal Junior Civil Judge, vide order impugned. Against the said order, the present revision is filed.

After perusing the entire record, more particularly, the orders of both the Courts below, this Court is of the view that the findings of the

Courts below are concurrent in nature, and therefore, this Court is not inclined to interfere with the same.

At this stage, learned counsel for the petitioner submitted, that the petitioner is ready to vacate the subject premises, therefore, some time may be given to him to get another accommodation for running his business.

Considering the facts and circumstances of the case and also in view of the submission of the learned counsel for the petitioner, the petitioner is given time till June 2017, to vacate the premises.

Accordingly, the Civil Revision Petition is disposed of directing the petitioner to vacate and hand over the vacant possession of the petition schedule shop to the respondents, on or before June 2017.

No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

October 19, 2016.
KTL

RAJA ELANGO, J

