

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Civil Revision Petition No.1165 of 2016

ORDER:

This revision, under Section 22 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 ("the Act" for short), is preferred by the respondent in R.C.No.39 of 2012 filed before the III Additional Rent Controller, Hyderabad.

The respondent herein filed R.C.No.39 of 2012 seeking eviction of the revision petitioner from the subject premises on the grounds of wilful default in payment of rent, and for her *bona fide* requirement. She filed I.A.No.361 of 2014, under Section 11(4) of the Act, requesting the Rent Controller to stop all further proceedings in R.C.No.39 of 2012, and to direct the petitioner herein to put her in possession of the subject property on the ground that the petitioner herein had failed to deposit the arrears of rent as well as future rents.

By his order, in I.A.No.104 of 2012 dated 10.07.2014, the Rent Controller directed the revision petitioner to deposit arrears of rent at the rate of Rs.2,000/- per month, from the month of October, 2011, within 15 days and posted the matter to 25.07.2014. The revision petitioner failed to deposit the arrears of rent by that date. The respondent herein, thereafter, filed I.A.No.361 of 2014 under Section 11(4) of the Act requesting the Rent Controller to stop all further proceedings, and to direct the revision petitioner to put her in possession of the subject property.

In his order dated 25.09.2014, the Rent Controller observed that, in compliance with the order passed in I.A.No.104 of 2012 in R.C.No.39 of 2012 dated 10.07.2012, the revision petitioner had to deposit the arrears of rent on or before 26.07.2014; he had failed to comply with the order of the Court; it was only on 05.08.2014, when the respondent herein had filed I.A.No.361 of 2014, did the revision petitioner file

I.A.No.362 of 2014 seeking extension of time of three days for deposit of the arrears of rent; as against the arrears of rent of Rs.66,000/-, he had deposited Rs.24,000/-, and had claimed that he had earlier paid rent of Rs.12,000/- in February, 2013; he had contended that he had fallen sick because of severe fever, and he was therefore unable to deposit the balance rent; the medical certificate filed by him showed that he was advised to take rest from 14.08.2014 to 21.08.2014; the arrears of rent was required to be deposited on or before 26.07.2014; he had filed the medical certificate only from 14.08.2014 to 21.08.2014 i.e. 20 days after expiry of the time limit mentioned in the order passed under Section 11(1) of the Act; and he had failed to show sufficient cause for non-compliance of the order passed in I.A.No.104 of 2012 in R.C.No.39 of 2012.

The Rent Controller further observed that the revision petitioner had not filed any proof to show that he had complied with the earlier order passed by the Court. I.A.No.361 of 2014 was allowed, the proceedings in R.C.No.39 of 2012 was stopped, and the revision petitioner was directed to vacate the subject premises within two months from the date of the order. Aggrieved thereby the revision petitioner carried the matter in appeal to the Additional Chief Judge, City Small Causes Court, Hyderabad in R.A.No.256 of 2014.

In the order under revision dated 26.10.2015, the appellate Court noted the contention of the revision petitioner that he was not in the City from the month of July, 2014, and observed that he had not mentioned to which place he had gone and for what reason he was held up thereat; Section 11(4) of the Act gave a facility to the tenant to seek extension of time to comply with the direction issued under Section 11(1) of the Act by showing sufficient cause; the revision petitioner had failed to seek extension of time by showing sufficient cause within the stipulated period; he had sought extension of three days by filing I.A.No.362 of 2014 on 05.08.2014; he had deposited Rs.24,000/- on 11.08.2014, and

had contended that he had credited the respondent's S.B. Account on 05.02.2013 for a sum of Rs.12,000/-; the medical certificate was of no avail; the revision petitioner was directed to deposit arrears of rent of Rs.66,000/- within 15 days from the date of the order; he ought to have made the deposit within 15 days and, on failing to do so, ought to have filed a petition showing sufficient cause; the revision petitioner had deposited Rs.24,000/- on 11.08.2014, that too after he received the notice in I.A.No.361 of 2012; and the trial Court had not committed any error in passing the order under appeal. The petitioner's appeal was accordingly, dismissed.

Sri T.D.Phani Kumar, Learned Counsel for the petitioner, would submit that the petitioner has since deposited the entire arrears of rent, and the ledger extract showed that the revision petitioner had deposited Rs.42,000/- on 25.11.2014.

Under Section 11(1) of the Act no tenant, against whom an application for eviction has been made, shall be entitled to contest the application, or to prefer any appeal against any order on the application, unless he has paid to the landlord, or has deposited with the Controller or the appellate authority, as the case may be, all arrears of rent due in respect of the building up to the date of payment or deposit, and continues to pay or deposit any rent which may subsequently become due in respect of the building, until the termination of the proceedings before the Controller or the appellate authority, as the case may be.

Section 11(4) of the Act stipulates that, if any tenant fails to pay or to deposit the rent, the Controller or the appellate authority, as the case may be, shall, unless the tenant shows sufficient cause to the contrary, stop all further proceedings and make an order directing the tenant to put the landlord in possession of the building.

The order under revision was passed by the appellate authority in proceedings under Section 11(4) of the Act. As noted hereinabove, the order of the Rent Controller in I.A.No.104 of 2012 dated 10.07.2014

required the revision petitioner herein to deposit the entire arrears of rent of Rs.66,000/- within 15 days i.e on or before 25.07.2014. The revision petitioner failed to deposit the arrears of rent. On 05.08.2014 the respondent herein filed an application under Section 11(4) the Act requesting the Rent Controller to stop all further proceedings in R.C.No.39 of 2012 on the ground that the revision petitioner had defaulted in payment of arrears of rent. While the revision petitioner filed I.A.No.362 of 2014 on the very same day i.e. 05.08.2014 seeking three more days time to pay the arrears of rent, he failed to pay the said amount even by 08.08.2014 and, as recorded by the Court below in the order under revision, he deposited only Rs.24,000/- on 11.08.2014. The entire arrears of rent was not even deposited till orders were passed by the Rent Controller in I.A.Nos.361 and 362 of 2014 dated 25.09.2014. It is only after he had preferred an appeal, does the revision petitioner claim to have deposited the balance arrears of rent on 25.11.2014. It is not as if the amount deposited on 25.11.2014 was pursuant to any order passed by the Court below as it is not in dispute that such deposit, made by the petitioner, was on his own volition. If that be so, no explanation is forthcoming why the revision petitioner, despite filing an application in I.A.No.362 of 2014 on 05.08.2014 seeking three days time to deposit the arrears of rent, did not choose to deposit the said amount by 08.08.2014.

In Mohammed Shamsuddin v. Ahmed Hafeezuddin

Farooqui^[1], a learned Judge of this Court, while construing the scope of Section 11(4) of the Act, held that non-payment of arrears of rent within the time stipulated by the Rent Controller would *per se* attract Section 11(4) of the Act and, in the absence of sufficient cause being shown, all further rent control proceedings are required to be stopped.

Both the Courts below have concurrently held that there was no valid explanation forthcoming for the revision petitioner's failure to comply with the order dated 10.07.2014 within the stipulated time of

fifteen days. While initially he claimed that he fell ill from 11.08.2014 to 21.08.2014 which is long after the 15 days time, stipulated by the Rent Controller, expired on 25.07.2014, he contended, before the appellate Court, that he was not in town since July, 2014. The appellate Court has noted that no information was furnished by the revision petitioner to show that he was not in the city from the month of July, 2014, and he had not mentioned the place to which he went in July, 2014 and why he could not come back. Viewed from any angle, the discretion exercised by both the Courts below, in passing the order under Section 11(4) of the Act, and in rejecting the appeal, do not necessitate interference.

The Civil Revision Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J.

Date:21.07.2016.

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[\[1\]](#) 2001 (23) An.W.R. 620 (A.P.)