

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.928 of 2010

ORDER:

This revision is filed against the judgment dated 23-11-2009 in R.C.A.No.2 of 2007, wherein the order, dated 01-10-2007, of eviction passed by Rent Controller in R.C.C.No.4 of 2006 was confirmed.

Learned counsel for the petitioner says that both Rent Controller and appellate authority has not considered the issue in proper perspective. He also submits that since the petitioner did not agree for enhancement of rent, the present eviction petition is filed. Though the petitioner agreed for 5% enhancement, the lower Court also erred in appreciating Exs A-1 and A-2 and the 1st respondent has not examined the independent witnesses to prove her case for eviction. The evidence adduced by both parties was not properly considered by both the Courts.

On the other hand, learned counsel appearing for respondent No.2 submits that both the Courts have considered the evidence on record and arrived at a correct finding and the said finding of fact cannot be interfered by exercising power of revision under Section 22 of A.P. Buildings (Lease, Rent & Eviction) Control Act, 1960 (for short "the Act").

The brief facts which are necessary for disposal are that the petitioner was tenant in the schedule premises, which is non-residential one on 14-02-2003 through one L.Vikram as per oral lease between the 1st respondent and the petitioner. As per oral lease, the petitioner has to pay Rs.8,000/- per month on or before 10th of every month and rent will be enhanced @ 10% on existing rent for every two years and he has paid Rs.11,000/- to the 1st respondent, which is to be returned with interest after adjusting dues at the time of vacation of premises and has to pay enhanced rent of Rs.880/- per month. Since the petitioner has not paid, the 1st respondent filed the petition for eviction.

The case of the 1st respondent is that she is aged 67 years and demanded the petitioner to pay arrears of rent and went on giving time to the petitioner. Moreover, the petitioner filed O.S.No.640 of 2005 on the file of I Additional Junior Civil Judge's Court, Tenali and obtained injunction. The 1st respondent issued notice to the petitioner for payment of arrears. Both Rent Controller and appellate authority found that there are no bonafidees in paying the rent regularly and the Rent Controller found even as per the version of the petitioner, he has not paid rent till August, 2005, he has paid up to December, 2004 only. No infirmity is brought to the notice

of this Court in the order passed by Rent Controller as well as the appellate Court. As rightly pointed out by learned counsel for the respondents that the findings of fact that the petitioner committed default in payment of rent cannot be disturbed while exercising power of revision under Section 22 of the Act. As such, I do not see any infirmity in the orders passed by the appellate authority. Learned counsel for the petitioner says that sufficient time may be granted for vacating the premises.

In view of the same, while dismissing the revision, the petitioner is granted four months time from today for vacating the premises on condition that he shall clear all arrears of rent if not paid as on today and continue to deposit monthly rent in advance. On expiry of four months, the petitioner shall handover the premises to landlord and an undertaking to that effect shall be filed before the Rent Controller.

Accordingly, the revision is dismissed. As a sequel to the disposal of this revision, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

10-08-2017
Nvl



