

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.5004 of 2016

ORDER:

The tenant to the eviction petition in R.C.No.20 of 2014 filed by the landlady under Section 10(3) of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short 'the Act'), impugning the eviction order dated 27.03.2015 also went unsuccessful in R.A.No.92 of 2015, maintained the revision.

2. Coming to the factual background, the R.C. filed was on the ground of bonafide requirement for personal occupation of the landlady and for her family members saying her son retired Government Teacher near Siddipet also wants to shift to Secunderabad to settle and occupy the petition schedule premises which is house GHMC Nos.1-4-32 and 37 of Kalasiguda, Secunderabad, with another connected house bearing Nos.1-4-35 & 36 in an extent of 57 square yards + 34 square yards together 91 square yards with internal common passage connected both houses and as she is in old age and medical requirements wants to occupy the same and her son also wants to occupy the same for their personal occupation. It is averred that earlier R.C.No.110 of 2007 filed against tenant B.Venkat Rao in respect of GHMC Nos.1-4-35 & 36 that was allowed and RC.No.111 of 2007 filed against the present tenant for the other premises among the above for GHMC Nos.1-4-32 & 37 ended in dismissal and she could not file appeal against the dismissal of the eviction petition in R.C.No.111 of 2007 due to old age within time and also from the subsequent events of his family members wants to occupy for their personal

occupation and grand daughter is studying in dental course at Secunderabad.

3. The counter filed by the tenant opposing the same is with contest while not disputing about the petitioner is a landlady also earlier litigation in R.C.No.111 of 2007 for eviction on bonafide requirement against him ended in dismissal, however by disputing other averments of any bonafide requirement to her and her son also by showing despite R.C.No.110 of 2007 allowed for the premises Nos.1-4-35 & 36 it is still lying vacant if at all to occupy and without which not entitled to seek eviction of the premises Nos.1-4-32 and 37, present eviction petition schedule and the intention to let out for higher rents by cause eviction and with introduced version to support by making false allegations and thereby sought dismissal of the eviction petition.

4. From the above pleadings in the course of enquiry PWs.1 and 2 were examined and Ex.P1 rough sketch of the schedule property marked and RW.1 was examined. It is from the hearing on the material the Rent Controller in passing the eviction order observed that there is no dispute of jural relationship and in the amount of rent and the premises taken on lease in 1970 even the lease is oral including from the evidence of son of the tenant as GPA holder also of him as RW.1 and PW.1 the petitioner besides her son retired as HM of High School as PW.2 from her evidence deposed about the requirement for bonafide occupation and rough sketch Ex.P1 shows that is also not in dispute by RW.1 from his cross examination of there is common passage with door way to the premises bearing Nos.1-4-35 & 36 which is adjacent to the

petition schedule Nos.1-4-32 and 37 and it is not residential locality. There is no evidence much less pleadings of adjacent premises bearing Nos.1-4-35 and 36 sufficient for the occupation of the petitioner and her son's family that too when adjacent premises in only of 34 square yards maximum whereas petition schedule 57 square yards and total put together 91 square yards and thereby for the medical facilities also when she wanted to shift from rural area where she resides near Siddipet, to Secunderabad to occupy the present premises along with her son's family and the landlady got the choice in ordering eviction in granting 60 days time to vacate. The appellate Court's judgment dated 21.04.2016 in confirming the same by reiterating the findings of the Rent Controller and also by saying the tenant did not come to witness box, but for his son as GPA holder also and there is nothing to interfere.

5. Coming to the grounds of revision what is urged is that the impugned order is without any material on record and without any basis including from oral evidence and out come of ill-appreciation of evidence and the conclusions arrived are unsustainable and baseless and thereby the concurrent findings are devoid of merits are liable to be set aside by allowing the revision dismissing the eviction petition.

6. Heard learned counsel for the petitioner representing through his son-GPA holder permitted by the Court and the respondent landlady even served failed to attend, hence taken as heard and perused the material on record.

7. In fact a perusal of the material on record clearly demonstrates the bonafide requirements and there is nothing to interfere with the impugned order for no illegality or impropriety or ill-appreciation of evidence in the findings much less with any perversity including from re-appreciation of the relevant material on record in considering the same within the scope of Section 22 of the Act.

8. Having regard to the above and in the result, the revision petition is dismissed before admission by confirming the eviction orders, however by granting time for vacating the premises of one year from today so as to secure the alternative accommodation by the tenant to vacate by the end of December 2017.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

Date: 06.01.2017
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JUSTICE Dr. B.SIVA SANKARA RAO

