

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION Nos.1941 AND 1979 of 2017

COMMON ORDER :

Heard learned counsel for the revision petitioner-tenant and learned counsel for the revision respondent-landlord in both the revision petitions.

2. The factual matrix is that the revision respondent-landlord filed R.C.No.280 of 2011 before the Rent Controller, Hyderabad, on two grounds, one is for bonafide requirement for his fostered or adopted son, as the case may be, and the other is for eviction of the respondent for willful default committed in payment of the agreed monthly rents. The Rent Controller held that there is no natural born or adopted son to the landlord to claim the bonafide requirement even to consider the requirement of the son as requirement of the landlord, though there is a willful default in ordering eviction on the ground of willful default. Impugning the said order of the Rent Controller, dated 26.02.2014, the landlord maintained R.A.No.179 of 2014 and the tenant maintained R.A.No.102 of 2014 as both are aggrieved by the respective rival findings in ultimately ordering for eviction.

3. So far as R.A.No.179 of 2014 of the landlord concerned, the appellate Tribunal held that fostered son is while living with the landlord, he is as good as a son and as good as requirement of him. Thereby, the dismissal of the application for bonafide requirement is misconceived conclusion of the Tribunal and dismissed the

R.A.No.102 of 2014 of the tenant holding that there is also a willful default. Aggrieved by the said two findings, two appeals by the unsuccessful tenant, he maintained the two revisions in the factual background supra.

4. The main contention of the learned counsel for the revision petitioner is that when there is no natural or adopted son, the question of claiming of some person as fostered son and the requirements of the landlord for his requirement does not arise and the appellate Tribunal's finding is a misconceived one in reversing the reasoned finding of the learned Rent Controller on that aspect. The other contention is that even the landlord accepted the belated payment of rents including in giving a notice about the arrears of one year thereby having condoned and from the acquiescence, there is no willful default from the alleged monthly non payments. The other contention is that the landlord having admitted that whenever the rent is received, he is not in the habit of passing receipts, he issued a notice about one year after that alleged non-payment and when he tried to evict him other than due process of law, the tenant is constrained to maintain civil suit for not to be evicted except through due process of law and obtained order wherein he was depositing the rent and the landlord is receiving by cheque petitions.

5. Law is fairly settled that requirement of the family member is a requirement of the landlord. Once such is the case, even there is no

adoption much less any registered document even claiming as adopted son and not proved and otherwise as fostered son from the fact born by record including from that cannot be disputed of he is one of the family members living with him and treated as son, that requirement definitely can be considered as requirement of the landlord for the bonafide requirement. So far as that finding of the appellate Tribunal concerned practically for this Court while sitting in revision within the limited scope form the Constitutional Bench expression of the Apex Court in **Hindustan Petroleum Company Limited v. Dilbahar Singh¹**, there is nothing to interfere. Coming to the willful default in payment of rents, it is not even the case of the tenant that when he regularly chosen to pay the rents and even landlord refusing to issue receipts, he has issued any notice immediately thereafter. Having regard to the above, against said finding of the appellate Tribunal also there is nothing to interfere but for the fact that sufficient time has to be given to the tenant to secure alternative accommodation and as such this Court has chosen to grant one year time from today to secure an alternative accommodation by the tenant on or before 30.11.2018 and vacate in the meantime and he has to pay not only the rent stipulated but also 50% above to it for use and occupation.

6. With the above directions, both the revisions are disposed of.

¹ (2014) 9 SCC 78

Miscellaneous petitions pending in both the revisions, if any,
shall stand closed. No order as to costs.

Dr. B. SIVA SANKARA RAO, J

8th November 2017.

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