

ORDER:

Aggrieved by the concurrent orders of eviction passed by both the Courts below, a tenant has come up with the above revision petition.

2. The respondent/landlord filed a petition in R.C.C.No.01 of 2009 on the file of the Rent Controller for eviction of the petitioner/tenant under Section 10 (3)(i)(a) of A.P. Buildings (Lease Rent and Eviction) Control Act, 1960, contending that he required the property bona fide for his own use. The Rent Controller allowed the petition for eviction on the ground that the landlord was suffering from Cancer and that therefore his requirement was bona fide. The petitioner filed a statutory appeal, but the same was dismissed by the appellate authority. Hence she is before us.

4. In order to prove that he required the premises bona fide for his own use, the respondent examined himself as PW.1 and also filed two documents, as Exs.A.2 and A.3. Ex.A.2 is a certificate issued by the Indo-American Cancer Institute & Research Centre, Hyderabad, indicating that the respondent was suffering from carcinoma and that he had undergone Chemotherapy. Ex.A.3 is a certificate issued by the KIMS, Hyderabad along with a discharge summary.

5. The petitioner/tenant examined herself as DW.1. In her cross-examination she admitted that the respondent was suffering from Cancer.

6. But the contention of the petitioner/tenant was that the landlord's son owned a house at Hyderabad and that the respondent could receive better treatment only at Hyderabad rather than at Machilipatnam.

7. The Courts below rightly rejected the above contention. A person aged about 70 years and suffering from a Cancer may choose, for reasons best known to him, the place where he would spend the rest of his life. It is not for a tenant to advise where the landlord will receive better treatment. Therefore the rejection by both the Courts below of the contention of the petitioner/tenant was correct.

8. The petitioner/tenant raised another contention that one portion of the same building is in the occupation of the respondent and that therefore, he could reside there. But the said contention was found to have been raised for the first time by the petitioner during the cross-examination of PW.1. Therefore, it was rightly rejected by both the Courts below. Moreover, the petitioner/tenant filed a suit in O.S.No.391 of 2005 seeking a permanent injunction restraining the respondent/landlord from evicting her except by due process of law. In that suit, the entire building was shown as the suit property. Therefore, the defence was obviously frivolous.

9. Interestingly, the petitioner stated during the cross-examination that she would have no objection to vacate the property if the respondent was prepared to come and stay in the petition property at Machilipatnam. This stand cannot be put to test unless the petitioner vacates.

10. As rightly pointed out by the Courts below, the respondent has admittedly a native of Machilipatnam. He was aged 69 years when he filed the petition for eviction in the year 2009. He is today more than 75 years of age. Admittedly he is a Cancer patient. If in such cases the landlord is not granted an order of eviction, he may not even have a chance to go back to his native place before the inevitable happens.

11. As pointed out by the appellate authority, the Supreme Court has held in *Prativa Devi v. T.v. Krishnan*<sup>1</sup> and in *Ragavendra Kumar v. Firm Prem Machinery & Co.*,<sup>2</sup> that the landlord is the best judge of his residential accommodation. Therefore, I find no reason to interfere with the concurrent findings of both the Courts below. Hence the Civil Revision Petition is dismissed.

12. As sequel, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

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JUSTICE V. RAMASUBRAMANIAN

27<sup>th</sup> January, 2017  
Js.

After the orders were pronounced, the learned counsel for the petitioner sought time to vacate the premises. Therefore, a time of one month is granted for vacation from the date of receipt of a copy of this order.

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JUSTICE V. RAMASUBRAMANIAN

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<sup>1</sup> (1996) 5 SCC 353

<sup>2</sup> (2000) 1 SCC 679

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN



Date: 27-01-2017

Js.

