

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.6806 of 2017

ORDER:

Heard both sides and perused the grounds of revision and the impugned order of the lower appellate Court in R.A.No.21 of 2016 dated 20.10.2017 confirming the order of R.C.No.311 of 2013 dated 26.12.2015, in the petition for eviction of the 2nd respondent/tenant, the LR of the 1st respondent since died, on the grounds of bonafide requirement and the tenant secured alternative accommodation, however failing to occupy and there is willful default.

The Rent Controller after full dressed trial from the evidence of the landlord as PW.1 and the 1st respondent/tenant since died as RW.1 and one MM Hassan as RW.2 with reference to Exs.P1 to P12 and Exs.R1 to R.16 held that there is willful default in payment of the rents and even the tenant failed to occupy the property despite fallen vacant available and thereby liable to be evicted with a direction to vacate by order dated 26.12.2015 within 3 months therefrom. Impugning the same, the tenant since died represented by his son as 2nd appellant preferred R.A.No.21 of 2016. The lower appellate Tribunal after hearing both sides held on the bonafide requirement that the landlord got 3 sons and one daughter and the daughter is married and the eldest son is residing in London as a student and the other 2 sons are at Jeddah. He worked as Administrative Assistant in General Authority of Civil Aviation at Jeddah and retired from service in October 2014 and he wanted to commence business at schedule property with the help of his sons, who are

ready to come. It is also brought on record in the cross examination of the landlord-PW.1 of his eldest son studying in London, his 2nd son is along with him and he underwent operation where his left leg was amputated on account of critical illness and infection in 2010 and the 3rd son also visited Jeddah on 3 months visit visa and returned to India and settled in Hyderabad and now he wanted to establish family business with the assistance of his sons in internet from the experience gained. It is therefrom categorically held that there is bonafide requirement of the premises by the landlord and his family members and so far as willful default concerned, it is also held that there is willful default in payment of the rents.

Having regard to the above, for this Court while sitting in revision that too within the limited scope as held by the Apex Court in **Hindustan Petroleum Corporation Ltd. Vs. Dilbahar Singh**¹ of the revision Court has to decide whether any finding is sustainable or not in appreciation of the correctness of the said finding by going into the factual aspects to that extent only.

Having regard to the above, there is nothing to interfere with the concurrent findings of the Courts below, but for to say the tenant/revision petitioner has to secure alternative accommodation by granting time till 31.12.2018 to secure any alternative accommodation in the meantime and vacate. In the meantime, he has to pay the damages for use and occupation @ Rs.3,500/- per month. The tenant represented by advocate gives undertaking to comply with the order to vacate the premises by

¹ (2014) 9 SCC 78

that time and if failed to vacate not entitled to further extension,
but for execution to evict.

Accordingly and in the result, the Civil Revision Petition is
disposed of.

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

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 29.12.2017
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