

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.Nos.4929, 4931, 4932 & 4933 OF 2009

COMMON ORDER:

The revisions are directed against the common judgment dated 21.08.2009 in R.A.No.209 of 2007 on the file of the Chief Judge, City Small Causes Court, Hyderabad filed against the common order dated 13.07.2017 in R.C.No.365 of 2003 on the file of the Principal Rent Controller; R.A.No.210 of 2007 filed against R.C.No.368 of 2003; R.A.No.211 of 2007 filed against R.C.No.367 of 2003; and R.A.No.212 of 2007 filed against R.C.No.366 of 2003.

Heard Mr.SSrinivas Reddy and Mr.SBalchand for the parties. The petitioners in the revisions are tenants and respondents are landlords. The revisions are directed against the confirming order of eviction of revision petitioners herein from the respective premises in their possession and enjoyment. The learned counsel requested for disposing of the revisions through this common order and have further stated that reference to the averments in C.R.P.No.4931 of 2009 would be sufficient for disposing of all the four revisions, inasmuch as the averments in the other revisions are either substantially same or similar with minor deviations. The findings recorded by the Courts below are also similar. C.R.P.No.4931 of 2009 is directed against R.A.No.209 of 2007 filed against R.C.No.365 of 2003.

The respondents filed R.C.No.365 of 2003 under Sections 10(2) (1), 10(2) (ii)(a), 10(3) (iii) (b) of the A.P. Buildings, (Lease, Rent and Eviction) Control Act for eviction of the revision petitioners.

Briefly stated, the case of respondents/landlords is that the schedule premises was originally let to the father of tenants on a monthly rent of Rs.15/-. The father of revision petitioners failed to pay rent from April, 2001 to July, 2003 and later after his death also, the revision petitioners, who are sons and wife, committed willful default in payment of rent. The father of revision petitioners sublet the premises to others without the consent of landlord. The respondents herein do not have source of income and their children intend to commence the business in the premises and hence they require the premises bonafidely.

The revision petitioners/tenants denied the allegations made in the R.C.No.365 of 2003. It is stated that the eviction petition is not maintainable and the trial Court has no jurisdiction to try the case. The revision petitioners tendered the rent by way of money orders but the respondents refused to receive the rent. The revision petitioners also denied that they have sublet the schedule premises to others. The requirement of respondents is not bona fide since they own several other properties in twin cities.

The trial Court framed the following points for consideration:

- i) Whether this court has got jurisdiction to try the eviction case?
- ii) Whether the respondent sublet a portion of the schedule premises to others?
- iii) Whether the respondent committed willful default in payment of rent for a period of 28 months from April, 2001 to July, 2003, if so they are liable for eviction?
- iv) Whether the requirement of the petitioner is bona fide?
- v) To what relief?

The Rent Controller directed eviction of revision petitioners within two months from 13.07.2007. The tenants filed rent appeals aggrieved by the order of eviction before the Chief Judge, City Small Causes Court, Hyderabad. Through the common order, the appeals were dismissed confirming the order of eviction. Hence, the revisions.

Mr.Srinivas Reddy confined his challenge to the findings recorded by the Courts below on the factum of default. According to him, the revision petitioners are paying the rents promptly and on account of demise of the tenant/father of revision petitioners, the rent could not be paid. Such non-payment ought to have been taken hold as either default or willful default attracting Section 10(2) (ii) of the Rent Control Act.

Mr.Balchand, learned counsel, relies on the Constitution Bench judgment of the Apex Court in HINDUSTAN PETROLEUM CORPORATION LTD. v. DILBAHAR SINGH¹ under revisional jurisdiction of High Court and contends that this Court ought not to re-appreciate the matter and disturb the concurrent findings of Courts below on default.

The appellate Court framed as many as seven points for determination. The gist of the findings recorded by the appellate Court on point No.1 is that the Rent Controller has got jurisdiction to entertain the proceedings; on point No.2 the appellate Court held that the revision petitioners failed to prove that they are legal heirs to their father and accordingly rejected the prayer of revision

¹ AIR 2014 SC 3708

petitioners that the rent control petition is bad for non-joinder of necessary parties; on point No.3, the appellate Court held that the revision petitioners committed willful default in payment of rents; on point No.4, the appellate Court held that it cannot be said that landlords established *bona fide* of personal requirement pleaded by them and on point No.5, the appellate Court held the respondents herein failed to establish that there is sub-letting. Accordingly, the appellate Court dismissed the appeals by confirming the order of the Rent Controller.

I have perused the concurrent findings of fact as recorded by the Courts below and I am of the view that the revision petitioners herein could not make out a ground for interference against the findings of fact recorded by the Courts below. Further, this Court is bound by the ratio of the Apex Court in HINDUSTAN PETROLEUM CORPORATION's case. The principle in HINDUSTAN PETROLEUM CORPORATION's case if is applied and the limited contention urged by the revision petitioner is taken note of, this Court is of the view that the revisions are without merit and the findings of fact recorded by the Courts below are based on pleadings and evidence.

In view of the admitted and undisputed circumstances, this Court does not propose to record independent findings on each one of the grounds while confirming the order of appellate Court.

The revisions fail and are, accordingly, dismissed. The revision petitioners are granted time till 31.12.2018 to vacate the portions in their possession. The revision petitioners shall file affidavit within

six weeks from today to avail the time granted by this Court.

The revision petitioners are directed to pay arrears of rent and also continue to pay rent till the vacant possession is delivered. There shall be no order as to costs.

Pending miscellaneous petitions, if any, stand closed.

S.V.BHATT, J

31st August, 2018

Note: Issue CC in two weeks

B/o

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