

The Hon'ble Sri Justice V.RAMASUBRAMANIAN

CIVIL REVISION PETITION No.3033 OF 2016

Date:25.01.2018

Between:

Mamidibathula Suguna W/ o.Srinivasa Rao
Aged about 38 years, Occ:Housewife,
R/ o.D.No.21/ 276, Buttaiahpet, Machilipatnam,
Krishna District.

...Petitioner

Vs.

Shree Vidyabhivrudhini Sangham, Machilipatnam,
Rep.y its President Vemuri Lakshmi Sarada
W/ o.Late Parthasaradhi Rao, aged about 86 years,
R/ o.Godugupet, Machilipatnam, Krishna District.

... Respondent

Counsel for Petitioner : Sri T. Koteswara Prasads

Counsel for Respondent : Sri G. Narasimha Rao

Gist :

Head Note :

Cases Referred :

Nil



HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

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ORDER:

Aggrieved by the orders of eviction passed concurrently by the Rent Controller and the appellate Authority, both on the ground of willful default and on the ground of *bonafide* requirement, the tenant has come up with the above revision petition.

2. Actually, the order of the appellate Authority was passed on 22.04.2016 and the above revision petition was filed in June 2016. The revision petition came up for orders as to admission for the first time on 08.07.2016 before me and it was adjourned twice.

3. But, in the meantime, execution was laid and that the order of eviction has been executed. Therefore, today the respondent/ landlord is in possession of the property.

4. Nevertheless, the learned counsel for the petitioner made a very valiant attempt to convince this Court that the concurrent orders of eviction were contrary to law. Therefore, let me take up for consideration the issue as to whether the orders were contrary to law or not ?

5. Heard Mr. T. Koteswara Rao, learned counsel for the petitioner and Mr. G. Narasimha Rao, learned counsel for the respondent.

6. The respondent filed RCOP No.12 of 2004 for eviction under Sections 10(2)(i), 10(3)(a)(ii) and (c) of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960. The claim of the respondent was that the petitioner committed default in payment of rent from 01.07.2003 onwards. The respondent also claimed that they required the premises *bonafide* for the purpose of running a Child Welfare Unit. The Child Welfare Unit was financed by the Indian Council for Child Welfare. It was claimed by the respondent that about 15 to 25 children are being

looked after by the respondent which is a Society and that the building was required to run the Child Welfare Unit.

7. The petitioner contested the application for eviction on the ground that she never committed any default in payment of rent. She claimed that the person who instituted the eviction proceedings was not competent to institute the proceedings.

8. A Junior Assistant working in the office of the Collector was examined as PW.1 and the President of the respondent Society was examined as PW.2. The copies of the registered notices dated 20.11.2004 and 29.11.2004 were filed as Exs.A1 and A2. The photographs with negatives were filed as Exs.A3 and A4. The certified copy of the plaint in a suit O.S. No.690 of 2003 filed by the petitioner for bare injunction against the landlord were filed as Ex.A5.

9. The petitioner examined herself as RW.1 and did not file any document.

10. The trial Court found that the petitioner who claimed to have duly and promptly paid rent or deposited the same in her own suit, failed to produce any evidence to show payment. Therefore, the Rent Controller came to the conclusion that there was willful default.

11. On the basis of Exs.X-1 to X-3 the letters written by the A.P. Council for Child Welfare, the Rent Controller also came to the conclusion that the respondent was running a Child Welfare Unit and that they *bonafidely* required the premises.

12. The petitioner filed an appeal. The appellate Court went into elaborate detail not only on the questions of willful default and *bonafide* requirement, but also on the question whether the President (PW-2) had locus sandi and whether there was a denial of title by the petitioner or not? One more objection was taken in the course of the appeal that it

was the Endowment Department which was to take up the cause of the respondent landlord, as the respondent landlord was a Trust.

13. All these issues were thrashed out by the appellate Court by a well considered judgment and eventually the appellate Court confirmed the findings of willful default and *bonafide* requirement.

14. I have independently gone through the material papers. As rightly observed by both the Courts below, the petitioner claimed at one stage that she deposited the rents in the suit for injunction i.e. O.S No.690 of 2003 and on the other hand, she claimed that she had paid the rents. But both were not established by the petitioner. Therefore, the finding of willful default was inescapable.

15. Insofar as *bonafide* requirement is concerned, the evidence on record was sufficient to come to the conclusion that the respondent was authorized to run a Child Welfare Unit by the A.P. Council for Child Welfare. Therefore, the concurrent findings are unassailable and I find no reason to interfere with the concurrent orders in a revision petition under Section 22 of the A.P. Building (Lease, Rent and Eviction) Control Act. Therefore, the Civil Revision Petition is dismissed.

16. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

January 25, 2018
KTL