

HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CRP.No.1816 of 2014

ORDER :

This revision is filed questioning the judgment and decree dated 01.04.2014 passed in RCA.No.1 of 2013 by the Principal Senior Civil Judge, Ongole-cum-Rent Control Appellate Tribunal, Ongole. By this order, the Appellate Tribunal confirmed the order passed in RCC.No.1 of 2008 dated 31.12.2012 by the Rent Controller-cum-Principal Junior Civil Judge, Ongole.

Heard the learned counsel for both the parties.

The revision petitioner is the tenant of the premises and the respondent is the owner. The parties will be referred to as owner and tenant only.

The owner filed a case RCC.No.1 of 2008 before the Rent Controller-cum-Principal Junior Civil Judge, Ongole. The grounds on which the application was filed are default in payment of rent for the period from June, 2007 to August, 2007 and personal occupation entitled under Section 10 (c) of the A.P.Buildings (Lease, Rent and Eviction Control Act, 1960) and Amendment Act, 2005 (for short 'the Act'). After due enquiry, the Rent Controller allowed the application. The appeal filed bearing RCA.No.1 of 20134 was dismissed. Thus, there are concurrent findings of fact. Questioning the same, this revision petition is filed.

Learned counsel for the revision petitioner argues that there is no default in payment of rent. He draws the attention of the Court to the judgment of the lower Court, wherein he relies on a statement made by the landlord that 'the respondent send the rents through money order, I refused to receive it'. In addition, learned counsel also submits that there is no actual personal need or occupation and that because of business rivalry instigated by one D.Srinivasa Rao, this entire case has been instigated. In addition, learned counsel produced Photostat copies of demand drafts and states that these demand drafts are sent to the landlord and the landlord did not accept the same. Therefore, learned counsel questions the judgments that are passed by the Rent Controller and also by the Appellate Authority.

In reply to this, learned counsel for the respondent particularly points out that the petitioner is chronic defaulter. According to the learned counsel, the demand drafts, the Photostat copies which were tendered in the open Court, were never forwarded to the landlord. He also points out that there is absolutely no proof to show that the bunch of demand drafts are actually tendered. In addition, counsel also submits that the default has been proved in the lower Court and no proof is filed that the amounts were paid from June, 2007 to August, 2007. Apart from the above, learned counsel also submits that the petitioner is a widow, who is aged above 65 years and therefore, under Section 10 (c) of the Act, she is

entitled for immediate possession of the premises. Learned counsel also points out that the Court below thoroughly analyzed the evidence and noticed that there is absolutely no evidence to show when the rent was actually tendered and/or that it was refused. The Court clearly commented that no details were furnished to show for which month rent is refused by the petitioner. It is also pointed out by the Court that the respondent has not filed any money order receipts to show that he actually sent the money orders for the three months for which there is a default. There is no documentary evidence and no dates are mentioned to show when the money order was actually sent. The Court also noticed that the rents of Rs.18,700/- were paid at one time after filing of the application. This Court also noticed that the tenant did not prove that he actually tendered the rents from June, 2007 to August, 2007.

Learned counsel also points that it is not in dispute that the landlord is aged and that she squarely falls within the categories of persons who are entitled to seek immediate use of the premises as per Section 10 (c) of the Act.

This Court after hearing both the learned counsels and perusing the materials on record analyses that there is strength in what is stated by the learned counsel that the demand drafts which the learned counsel produced in this Court were never tendered or offered to the landlord. Till date

absolutely no proof is filed to show that these demand drafts are actually given at appropriate time. No proof of sending the drafts or of the refusal of the landlord to accept the same are made out.

Even during the course of arguments, learned counsel could not point out that these demand drafts were actually dispatched either by post or by courier or otherwise and the same were refused by the tenant. Other than merely stating that the demand drafts were sent, absolutely no proof is forthcoming in all the two courts let alone this Court that these demand drafts are tendered or offered to the landlord. In addition, there is no proof is filed to show that the default committed in June, 2007 to August, 2007 as alleged by the landlord is not correct. There is also no dispute between the parties that the landlord is aged above 65 years and that she squarely falls within the clause of persons which was specified under Section 10 (c) of the Act, who are entitled to seek immediate recovery of the premises.

In fact, an interlocutory application (IA.No.1 of 2016) has also been filed by the landlord seeking a direction to the tenant to deposit the arrears of rents from 01.03.2014 to 30.09.2016. No counter is filed to the application. Therefore, the averments in the affidavit that there is default in payment of rents and also default from 01.03.2014 to 30.09.2016 are

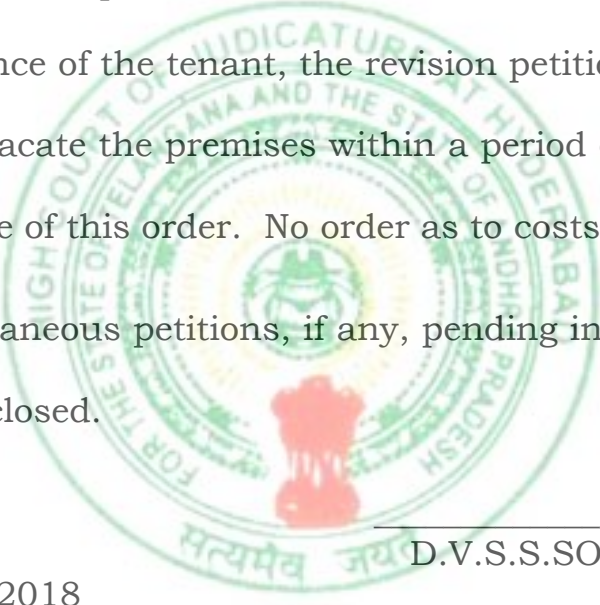
also borne out from the record as there is no counter affidavit filed denying the allegation.

In the circumstances, this Court finds absolutely no reasons to interfere with the order dated 01.04.2014 in RCA.No.1 of 2013 passed by the Rent Control Appellate Tribunal, Ongole confirming the order of the Rent Controller in RCC.No.1 of 2008.

In the result, the revision is dismissed. Since this order is dictated in the presence of both the learned counsels and in the presence of the tenant, the revision petitioner/tenant is directed to vacate the premises within a period of two months from the date of this order. No order as to costs.

Miscellaneous petitions, if any, pending in this revisions shall stand closed.

Date: 11.12.2018
KLP

D.V.S.S.SOMAYAJULU, J