

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

CIVIL REVISION PETITION No.294 OF 2019

ORDER:

This Civil Revision Petition is filed against the order dated 31.12.2018 passed by the Chief Judge, City Small Causes Court, Hyderabad, in R.A.No.132 of 2017, wherein and whereby the learned Chief Judge dismissed the appeal confirming the eviction order dated 21.09.2017 passed by the Principal Rent Controller, City Small Causes Court, Hyderabad, in R.C.No.307 of 2013.

Learned counsel for the petitioners vehemently submits that initially the petitioners are tenants in respect of the suit schedule property and they paid rents regularly till May, 2010; that the petitioners purchased the suit schedule property from the son of the respondent by way of an agreement of sale dated 02.06.2010; that there was an understanding between the son of the respondent and the petitioners that since the petitioners have paid the entire sale consideration in respect of the suit schedule property, they need not pay any rents after execution of the agreement of sale, as such, they did not pay the rents from June, 2010; the Courts below did not afford the petitioners an opportunity to adduce evidence and file documents and came to the conclusion that there was wilful default in payment of rents and that therefore, one more opportunity may be granted to the petitioners to adduce evidence.

Para 17 of the impugned judgment reads as under:

"The learned counsel for the respondents-tenants vehemently contended that the learned Advocate appearing for the

tenants before the Tribunal infact did not conduct the case properly and thereby there was no opportunity for the tenants to produce their evidence and therefore prays this Court that the respondents may be saddled with some costs and remand the matter to the Rent Controller for providing opportunity to the tenants to produce their evidence. The learned counsel for the landlord vehemently opposed and contended that it is not a fit case to remand the matter as the tenants with mala fide intention, deliberately withheld the evidence and filed one petition or the other and trying to procrastinate the matter to an indefinite period. Further it is urged by the landlord that the chief affidavit of RW-1 was filed vide SR No.1216/2015, dated 8.5.2015 and the Tribunal provided opportunities till 3.9.2015 and on 3.9.2015 the Tribunal having found no other alternative eschewed the chief affidavit of RW-1. Thereafter the respondents-tenants have filed I.A.No.393/2015 with a prayer to reopen the case for the evidence of the tenants and the landlord fairly reported no counter and the said petition was allowed on 14.10.2015. Even thereafter also the respondents have not chosen to produce RW1 to submit himself for the cross examination by the opponent and did not produce evidence in support of the counter and the learned Rent Controller having provided ample opportunities till 1.2.2017 for more than 1 ½ years, again closed and eschewed the chief affidavit of RW-1 and thereafter the tenants have not taken care to represent the matter and pursue the proceedings and that is why the learned Rent Controller passed the orders on merits on 21.9.2017. Having verified the docket orders legally passed by the Rent Controller, prima facie, the facts and figures as urged by the landlord are true and correct and it leads to irresistible conclusion that the tenants have shown dubious conduct and availed nearly more than 2 years time but shown 'zero' progress and produced 'zero' evidence except cross examining PW1 and filed Ex.R.1 and thereby lost opportunity to produce the evidence."

A reading of the above findings goes to show that the second petitioner, who filed his chief examination affidavit as R.W.1, did not appear before the Rent Controller; that the Rent Controller, after affording opportunities, eschewed the evidence of R.W.1; that thereafter, the petitioners filed I.A.No.393 of 2015 to reopen the case for adducing their evidence; that the said application was allowed on 14.10.2015, as the respondent did not oppose the same; that even thereafter, the petitioners did not choose to appear before the Rent Controller for cross examination; that the Rent Controller having provided ample opportunities till 01.02.2017 i.e., more than 1½ years, again closed and eschewed the chief evidence of R.W.1;

that thereafter, the petitioners did not pursue the proceedings and therefore, the Rent Controller passed orders on merits on 21.09.2017; that having verified the docket orders passed by the Rent Controller, the appellate Court came to the conclusion that the conduct of the petitioners was dubious as they availed nearly more than two years time but shown 'zero' progress and produced 'zero' evidence except cross examining P.W.1 and filing Ex.R.1 and thereby, they lost opportunity to produce evidence. The said findings of appellate Court could not be disputed as they are based on record.

In view of the above, it is clear that though opportunity was given to the petitioners, they did not avail the same and protracted the litigation. Both the Courts below concurrently held that the petitioners-tenants failed to discharge their burden regarding payment of rent and committed wilful default in payment of rents and that the respondent-landlord has established the *bona fide* requirement of the petition schedule property. Hence, I see no infirmity in the impugned order warranting interference by this Court by exercising revisional jurisdiction under Section 22 of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960.

Learned counsel for the petitioners pleaded six months time for vacating the premises since it is non-residential premises.

Keeping in view facts and circumstances, this Court is granting six months time from today for vacating the premises on the condition that petitioners pay entire arrears of rent and shall

continue to pay future rents on or before 10th of every month till completion of six months and they shall file an affidavit to that effect. It is made clear that there will not be any extension of time since ample time is granted.

The Civil Revision Petition is accordingly dismissed subject to grant of time for vacating the premises.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

A. RAJASHEKER REDDY, J

Date: 14.02.2019
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