

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.764 of 2019

ORDER:

This Revision is filed under Section 22 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short “the Act”) challenging the order dt.19.12.2018 in R.C.A.No.1 of 2014 of the Principal Senior Civil Judge, Warangal confirming the order dt.11.12.2013 in R.C.C.No.02 of 2009 of the Rent Controller-cum-Principal Junior Civil Judge, Warangal.

2. The respondents herein filed the RCC for eviction of the petitioner alleging that the petitioner is their tenant, who had been inducted into possession as a tenant during the lifetime of the husband of the 1st petitioner, K.Hanumantha Rao, in 1995; that thereafter there was an agreement between the parties executed on 30.07.1995 evidencing the tenancy; that under the terms of the agreement, petitioner deposited Rs.15,000/- with the said K.Hanumantha Rao; and it was agreed that the said deposit shall not carry any interest and the petitioner shall not be required to pay any rent for the said premises because the interest was calculated @ Rs.175/- p.m. which was the same as the rent. It was contended that the petitioner executed another agreement on 10.07.1997 in favour of K.Hanumantha Rao on same terms and conditions and later he also executed a further agreement on 10.07.1998 on same terms and conditions in favour of Hanumantha Rao.

3. It is contended that in August, 2000 the said Hanumantha Rao died leaving the respondents as his legal heirs. Thereafter, the respondents required the RCC schedule property for their personal necessity and requested the petitioner to vacate the premises. They contended that the petitioner then filed O.S.No.896 of 2001 before the II Additional Junior Civil Judge, Warangal for grant of permanent injunction with false allegations and the suit was dismissed for default. They also contended that petitioner had damaged the RCC schedule premises and that they have issued a notice on 02.12.2005 asking the petitioner to vacate it but he did not do so though he received the notice. They also pleaded that the petitioner undertook the repairs to the RC schedule property without the consent and permission of the respondents and caused further damage to the building.

4. Counter affidavit was filed by the petitioner opposing the RCC stating that in O.S.No.896 of 2001 he admitted that he was a tenant of K.Hanumantha Rao, but contended that there was an agreement of sale executed in his favour by Hanumantha Rao agreeing to sell the RCC schedule premises on 31.08.1995. He contended that the rights of the respondents have been extinguished and he became the owner and possessor of the RCC schedule property because of his continuous possession and so he cannot be termed as a tenant.

5. Before the Rent Controller, respondents examined PW1 and marked Exs.P-1 to P-12 and the petitioner did not lead any evidence.

6. By order dt.11-12-2013, the Rent Controller rejected the contention of the petitioner that there is no jural relationship between the parties taking note of the admission contained in the plaint in O.S.No.896 of 2001 filed by petitioner against respondents that he was a tenant under late K.Hanumantha Rao since 1996 on a monthly rent of Rs.500/-. It also relied on the admission of petitioner as R.W.1 wherein he stated that interest accrued on the deposit should be adjusted towards rents. It held that petitioner is therefore estopped in now denying that he is not the tenant of the respondents. It further held that *bona fide* requirement of the premises was established by respondents and there is no evidence to show that respondents owned and possessed other accommodation besides R.C. schedule premises. It also rejected the plea of the petitioner that he had purchased the R.C. schedule premises under an agreement of sale, on the ground that it was not produced before it. It held that denial of title of respondents by petitioner is not *bona fide* and petitioner is liable for eviction.

7. Challenging the same, the petitioner filed R.C.A.No.1 of 2014 before the Principal Senior Civil Judge, Warangal.

8. By order dt.19-12-2018, the said appeal was also dismissed by the lower appellate Authority. The lower appellate Authority also relied upon the admission of the relationship of landlord and tenant made by petitioner in the civil suit O.S.No.896 of 2001. It held that there is no denial of *bona fide* requirement of respondents by petitioner, and so on the said ground, petitioner is liable to be evicted from the R.C. schedule premises.

It further held that the petitioner in his counter or during his evidence did not deny the acts of waste alleged against him by respondents and so they have to be accepted as true and correct. It rejected the plea of the petitioner that other legal heirs of late K.Hanumantha Rao were not impleaded as parties in the R.C.C. on the ground that eviction proceedings by some of the co-owners is maintainable when there is no conflict on interest. It also rejected the plea of petitioner that he purchased the R.C. schedule premises from late K.Hanumantha Rao.

9. Assailing the same, this Revision is filed.

10. Learned counsel for petitioner contended that no doubt the petitioner had admitted that he was a tenant of late K.Hanumantha Rao in the plaint filed by him in O.S.No.896 of 2001, but that does not mean that he should be treated as a tenant when there is an agreement of sale set up by him whereunder the said late K.Hanumantha Rao agreed to sell the R.C. schedule premises to him on 31-08-1995. The said agreement of sale has not been marked as an Exhibit in the R.C.C. Also, the relationship of landlord and tenant, which is admitted by petitioner in the plaint filed by him in O.S.No.896 of 2001, would continue unless there is a written agreement of sale between the parties wherein there is a specific recital that from the date of the said agreement of sale, the relationship between the parties is not that of landlord and tenant. Since there is no such agreement of sale much less any such recital as is claimed by petitioner, the Courts below did not commit any error of jurisdiction in holding that there is relationship of tenant and landlord between the petitioner and respondents.

11. Both the Courts below have concurrently held that the requirement of respondents of the R.C. schedule premises is *bona fide* and the denial of title of respondents by petitioner is not *bona fide*. These findings have been recorded on the basis of appreciation of evidence and do not warrant interference by this Court in exercise of its jurisdiction under Section 22 of the Act.

12. Accordingly, the Civil Revision Petition fails and it is dismissed at the stage of admission.

13. Petitioner is granted time till 11-09-2019 to vacate the R.C. schedule premises subject to payment of arrears of rent, if any, within six (06) weeks and subject to the petitioner filing an undertaking before the Rent Controller that he would vacate the R.C. schedule premises on or before 11-09-2019 and he would continue to pay the rents till the said date including arrears of rent, if any. Such undertaking shall be filed within two (02) weeks from the date of receipt of copy of this order. No costs.

14. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

M.S. RAMACHANDRA RAO, J

11th June, 2019.

Note :- Issue C.C. by 17-06-2019.

B/o.
Gra/Vsv