

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.761 of 2019

ORDER :

This Civil Revision Petition is filed under Section 22 of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (**for short, 'the Act'**) challenging the order dt.30.01.2019 passed in R.C.A.No.140 of 2017 on the file of the Additional Chief Judge, City Small Cases Court, Hyderabad, confirming the order dt.02.11.2017 passed in R.C.No.250 of 2014 on the file of III Additional Rent Controller, City Small Causes Court, Hyderabad.

2. The respondent filed the said R.C. for eviction of petitioner alleging that petitioner is his tenant, and that the petitioner had stopped payment of rent from December, 2011 and did not pay rents till July, 2014. He also contended that he served in the Defence Forces as a Colonel and retired from the Military Hospital, Secunderabad, and is also entitled to invoke Section 10-A and 10-B of the Act which permitted immediate grant of possession to him.

3. The petitioner filed a counter denying the allegation of default in payment of rent and also claimed that he was not aware of the nature of the job or position of the respondent. He contended that his children are school-going, and their education would be ruined if he is made to vacate the R.C. Schedule property.

4. Before the Rent Controller, the respondent examined himself as P.W.1 and got marked Exs.P.1 to P.5.

5. The petitioner examined himself as R.W.1 and marked Exs.R.1 to R.11.

6. By order dt.02.11.2017, the Rent Controller directed eviction of petitioner from the R.C. Schedule premises holding that the petitioner had committed willful default in payment of rent and he also did not prove that he had tendered rents to the respondent up to August, 2014. It also rejected the contention of petitioner that the rent is only Rs.1500/- per month and not Rs.2,500/- as was contended by the respondent. It however rejected the pleading under Section 10-A and 10-B on the ground that no documentary proof was filed to show that the respondent was a Government employee though in the cross-examination of R.W.1 (petitioner) he had admitted that the respondent used to work in Defence and he retired from Defence Services.

7. Assailing the same, the petitioner filed R.C.A.No.140 of 2017.

8. The respondent supported the decree of eviction passed against the petitioner by specifically contending in the appeal that once the petitioner admitted in his cross-examination that the respondent was employed in Defence Services and had retired therefrom, he is also entitled for eviction of petitioner on the said ground.

9. By order dt.30.01.2019, the Additional Chief Judge, City Small Causes Court, Hyderabad dismissed R.C.A.No.140 of 2017. It not only confirmed the finding of willful default in payment of rent, but also reversed the finding of the Trial Court and held that respondent is

entitled to seek immediate possession under Sections 10-A and 10-B of the Act. It also imposed costs of Rs.5,000/- on the petitioner.

10. Assailing the same, the present Civil Revision Petition is filed.

11. The counsel for petitioner contended that petitioner has school-going children; that the orders passed by the Rent Controller and the Appellate Court under the Act suffer from serious errors of fact and law, and cannot be sustained.

12. In the instant case, the petitioner himself had admitted in his cross-examination that the respondent had been employed in Defence Forces and had retired therefrom. The respondent had pleaded that he retired as a Colonel from the Army and had worked during his service in the Military Hospital, Secunderabad, and as such he was also a Government employee. Once this fact is admitted in the cross-examination by the petitioner / R.W.1, the respondent is entitled to immediate possession of the property under Section 10-A and 10-B of the Act.

13. That apart, the Trial Court as well as the Appellate Court after considering the evidence on record held that there was a willful default in payment of monthly rents. It held that petitioner did not produce any documents to establish that he paid the monthly rents from January, 2012 to July, 2014.

14. In this view of the matter, I do not find any error of law or fact in the orders passed by the Court below warranting interference by this Court in exercise of its jurisdiction under Section 22 of the Act.

15. Accordingly, the Revision fails and it is dismissed at the stage of admission. No order as to costs.

16. However, the petitioner is granted time to vacate the R.C. Schedule property by 31.05.2019 and shall deposit within four (04) weeks from the date of receipt of copy of this order the entire arrears of rent of Rs.2,500/- per month from January, 2012 till date before the III Additional Rent Controller, City Small Causes Court, Hyderabad in R.C.No.250 of 2014 [after giving credit to the amounts already deposited and also the rents up to 31.05.2019]. He shall also file an undertaking before this Court within one (01) week from the date of receipt of copy of the order that he would vacate the R.C. Schedule premises on or before 31.05.2019 and pay the arrears and rents as directed above.

17. In default of filing the said undertaking before this Court as aforesaid or of deposit of arrears / rents as aforesaid within the time stipulated, the petitioner would be liable to be evicted forthwith from the R.C. Schedule premises.

18. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 28.03.2019

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