

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.949 of 2019

ORDER :

Heard the learned counsel for petitioners and the learned counsel for respondent.

2. This Civil Revision Petition 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.04-02-2019 in R.C.A.No.6 of 2017 of the Additional Chief Judge, City Small Causes Court, Hyderabad confirming the order dt.09-12-2016 in R.C.No.167 of 2014 of the Principal Rent Controller, City Small Causes Court, Hyderabad.

3. The respondent is admittedly the owner and land-lady of the R.C. schedule premises.

4. She filed the R.C. seeking eviction of petitioners on the ground of willful default in payment of rents from July, 2014 till November, 2014 and also on the ground that she is aged more than 75 years and requires it for her use invoking Section 10-C(1)(c) of the Act.

5. Both the trial Court and the lower appellate Court did not accept the plea of willful default, but both of them directed eviction of petitioners on the ground that respondent is a Senior Citizen and is entitled to seek eviction under Section 10-C(1)(c) of the Act.

6. Assailing the same, this Revision is filed.

7. While the learned counsel for petitioners did not dispute the fact that respondent is aged above 65 years and would fall within Section 10-C(1)(c) of the Act, he contends that the respondent did not mention the purpose for which she intends to use the R.C. schedule property, which is a non-residential property.

8. Learned counsel for respondent refuted the said contention and stated that respondent is not mandated by the Statute to disclose the purpose and it is sufficient if she states that she requires the property for her use and that she is a Senior Citizen aged above 65 years.

9. Section 10-C (1)(c) of the Act states:-

“10-C. Right to recover immediate possession of premises to accrue to a widow:-

(1) Where the landlord is,-

(a) a widow and the premises let out by her, or by her husband;

(b) a handicapped person and the premises let out by him;

(c) a person who is of the age of sixty-five years or more and the premises let out by him, or her;

is required for use by him or her or for his or her family or for any one ordinarily living with him or her as the case may be for use he or she may apply to the Court for recovery of immediate possession of such premises.

(2) Where the landlord referred to in sub-Section (1) has let out more than one premises, it shall be open to him to make an application under that sub-section in respect of any one residential and one non-residential premises each chosen by him.

Explanation I:- For the purpose of this section, ‘handicapped person’ shall mean a person who is as if being an assessee entitled

for the time being to the benefits of deduction under Section 80-U of the Income-Tax Act, 1961 Central Act 48 of 1961 (Central Act 48 of 1961).

Explanation II:- The right to recover possession under this section shall be exercisable once in respect of each for residential and for non-residential use.”

10. A reading of the above provision indicates that the landlord who is above 65 years of age can invoke the said provision stating that he requires immediate possession of the leased premises for use by him, provided, he confines it to only one residential and one non-residential premises, which is owned by him. The Statute does not mandate a landlord to disclose the purpose for which he requires the leased premises so long as the landlord does not demand recovery of possession of more than one residential and one non-residential premises. It is not the case of the petitioners that respondent had already secured another non-residential premises invoking Section 10-C(1)(c) of the Act.

11. In **S.Lachman Singh Vs. S.Satnam Singh**¹ this Court interpreted the language of Section 10-C(1)(c) of the Act and held that it cannot be equated to the words “*bona fide* required for use” which are mentioned in Section 10 of the Act. It held that the legislature was conscious of providing a special right to the specified category of landlords falling under Section 10-C of the Act, and therefore it is not necessary that *bona fides* are required to be established by the landlord while claiming the relief under Section 10-C(1)(c) of the Act.

¹ 2011(1) ALT 242

12. I therefore do not find any merit in the Revision and it is accordingly dismissed at the stage of admission.

13. However, the petitioners are granted time till 10-05-2019 to vacate the R.C. schedule premises and handover peaceful vacant possession thereof to the respondent and they shall also file an affidavit in this Court undertaking to deliver such possession within one week from the date of receipt of a copy of this order. In default of filing such affidavit, the petitioners shall be liable to be evicted forthwith. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 12-04-2019

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