

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.1867 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.04-06-2019 in R.C.A.No.38 of 2018 of the Chief Judge, City Small Causes Court, Hyderabad confirming the order dt.19-02-2018 in R.C.No.166 of 2011 of the IV Additional Rent Controller, City Small Causes Court, Hyderabad.

2. Respondents herein filed the said eviction petition seeking eviction of petitioner from the R.C. schedule premises on the ground that petitioner committed willful default in payment of rent from April, 2011; that 1st respondent also intended to do electronics business in the R.C. schedule premises; he is a Senior Citizen aged about 67 years; and his requirement of the premises is *bona fide*. They thus invoked Section 10-C of the Act also in addition to Section 10(2)(i) and Section 10(3)(iii) of the Act.

3. Petitioner filed a counter denying that he has committed willful default in payment of rent and stated that respondents evaded to receive rents from March, 2011 to August, 2011 when they were sent through Money Orders. He alleged that other grounds of eviction are also not made out.

4. Before the Rent Controller, the respondents examined P.W.1 and marked Exs.P-1 to P-4. The petitioner examined himself as R.W.1 and got marked Ex.R-1.

5. By order dt.19-02-2018, the Rent Controller allowed the application for eviction on the ground that 1st respondent is a Senior Citizen aged above 65 years, on the basis of date of birth incorporated in the Income Tax Identity card (Ex.P-2) and Aadhar card (Ex.P-3) apart from Ration card (ExP-4), which showed that the date of birth of the 1st respondent was 25-11-1944. It held that under Section 10-C of the Act, the 1st respondent is entitled to immediate possession of the R.C. schedule premises since he is older than 65 years prescribed therein. It also held that the need of respondents for use of the premises for their business is *bona fide* one. It observed that 1st respondent was residing on the top of the R.C. schedule premises and he can conveniently conduct business from the said premises.

6. Challenging the same, petitioner filed R.C.A.No.38 of 2018 before the Chief Judge, City Small Causes Court, Hyderabad.

7. The said appeal was dismissed on 04-06-2019 with costs quantified at Rs.20,000/- and further observing that if petitioner did not vacate within two months from the date of judgment, he shall pay Rs.10,000/- p.m. to the respondents apart from fair rent towards use and occupation charges of the premises. The Appellate Authority under the Act also confirmed the findings of the Rent controller and confirmed the order of the Rent Controller on the aspect of *bona fide*

requirement as well as Section 10-C of the Act though not for willful default. The Appellate Authority also held that respondents established that they require the R.C. schedule premises to commence business in electronics and that 1st respondent possesses beneficial experience in it.

8. Assailing the same, this Revision is filed under Section 22 of the Act.

9. The fact that 1st respondent is a Senior Citizen aged above 65 years as on the date of filing of the R.C. is borne out by Exs.P-2 to P-4. Under Section 10-C (1)(c) of the Act, a person who is aged 65 years or more and who is a landlord can get immediate possession of the property let out by him to his tenant for his use one residential and one non-residential premises, which is owned by him. Therefore, both the Rent Controller as well as the Appellate Authority did not commit any error in holding that respondents are entitled to evict the petitioner on the ground that 1st respondent is a Senior Citizen and is entitled to immediate possession under Section 10-C (1)(c) of the Act.

10. That apart, the evidence on record indicates that respondents are staying above the R.C. schedule premises, that 1st respondent had experience in doing electronic business and he has been doing sales and service of electronics. Therefore, on the aspect of *bona fide* requirement also, the findings of the Rent Controller as well as Appellate Authority do not warrant any interference by this Court.

11. The order of eviction granted by the Rent Controller and the Appellate Authority is thus confirmed and the petitioner is granted one month time from today to vacate the R.C. schedule premises subject to payment of Rs.20,000/- costs awarded by the Appellate Authority to respondents or deposit the said amount to the credit of R.C.No.166 of 2011 within two weeks from the date of receipt of copy of this order. The petitioner shall also file an undertaking that he will vacate the R.C. schedule premises by the said date and he would make deposit as directed by the Appellate Authority within two weeks as aforesaid. To the extent the Appellate Authority directed the petitioner to pay Rs.10,000/- p.m. to respondents apart from fair rent towards use and occupation charges of the premises, the said direction is set aside since there is no such power under the provisions of the Act.

12. The Civil Revision Petition is partly allowed to the above extent. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 06-08-2019

Vsv