

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No. 316 of 2020

ORDER:

1. This Revision is filed under Section 22 of the A.P. Building (Lease, Rent & Eviction) Control Act, 1960 challenging the order dt.17.12.2019 in RA.No.85 of 2018 of the Additional Chief Judge, City Small Causes Court at Hyderabad confirming the order dt.20.08.2018 in RC.No.30 of 2014 of the I Additional Rent Controller at Hyderabad.

2. The 1st respondent in this Revision had filed RC.No.30 of 2014 against the petitioner and his brother-2nd respondent seeking their eviction from a non-residential premises on the grounds of willful default in payment of monthly rent of Rs.2,500/- from January, 2013 till the filing of the RC, subletting by the 2nd respondent to the petitioner without the consent of the 1st respondent, and also bonafide requirement of the suit schedule premises by the 1st respondent.

3. The 2nd respondent in the Revision, who was shown as 1st respondent in the RC, remained *ex-parte*.

4. Petitioner filed a counter contesting the eviction petition alleging that the 1st respondent tried to forcibly evict him from the RC schedule property and he had to file OS.No.768 of 2013 before the VII Junior Civil Judge, City Civil Court, Hyderabad, which was allowed. He also contended that there is no jural relationship between the 1st respondent and himself. He also claimed that he

was inducted as a tenant in the schedule premises by his previous owner, Mohd.Hafeezuddin and there was no attornment of tenancy to the 1st respondent by him.

5. Before the Rent Controller, the 1st respondent examined PW.s 1 and 2 and marked Ex.s P1 to P5. The petitioner examined RW.s 1 to 4.

6. By order dt.20.08.2018, the Rent Controller allowed the RC. He held that there is jural relationship between the petitioner and the 1st respondent and that there is no necessity for attornment of tenancy, since the 1st respondent had purchased the property from his previous owner, under whom the petitioner was a tenant. He held that the petitioner's denial of title of the 1st respondent is not *bonafide*. He also examined the evidence on record and came to the conclusion that there is not only willful default in payment of rents but there is *bonafide* requirement of the 1st respondent of the RC schedule premises for shifting his cement business from a rented premises to the RC schedule premises.

7. These findings were assailed by the petitioner in RCA.No.85 of 2018 before the Additional Chief Judge, City Small Causes Court at Hyderabad(Appellate Authority).

8. The Appellate Authority under the Act also dismissed the said appeal on 17.12.2019. He also held that there was a jural relationship of landlord and tenant between the petitioner and the 1st respondent, that rents were paid by the petitioner and his brother to the 1st respondent, and on that count also, the 1st

respondent would fall in the category of “landlord” as per the definition of said term in the Act, and that the denial of title of the 1st respondent by the petitioner is not bonafide. It held that there is no evidence on record to prove payment of rents from January, 2013 onwards to the 1st respondent by the petitioner and his plea that there was an advance of Rs.25,000/- deposited with the 1st respondent is not supported by any document. It also believed the evidence of PW1 that he purchased the RC schedule property to shift his business. It however held that there is no sub-letting by the 2nd respondent in favour of the petitioner.

9. Assailing the same, this Revision is filed.

10. Heard counsel for the petitioner.

11. Counsel for the petitioner contended that the orders passed by the Courts below cannot be sustained since they did not properly appreciate the evidence on record. He also contended that there was no attornment of tenancy by the petitioner in favour of the 1st respondent.

12. As rightly held by both the Courts below, the 1st respondent purchased the property under Ex.P1 Sale Deed from Shaheeda Begum, W/o Mohd.Hafeezuddin(PW2) for a valuable consideration. PW2 informed the petitioner about the change of ownership and the fact that his wife had sold the property to the 1st respondent.

13. A Division Bench of this Court in ***Shankaramma and Others v. Mohd Abdul Hameed and Others***¹ had held that there is no necessity for attornment of tenancy, if there is a conveyance of title by a registered document in favour of the subsequent purchaser.

14. Thus, I agree with the finding of both the Rent Controller and the Appellate Authority that denial of title of the 1st respondent by the petitioner is not *bonafide* and there is jural relationship between the petitioner and the 1st respondent.

15. I also agree with the finding of both the Courts below on the aspect of willful default and *bonafide* requirement of subject premises since there is no evidence to show that there is any payment of rents after January, 2013 to the 1st respondent by the petitioner and the evidence of the 1st respondent that he had purchased the property to shift his cement business from a rented premises indicates that his requirement is also *bonafide*.

16. In this view of the matter, I find no merit in this Revision and it is accordingly dismissed at the admission stage. However, the petitioner is granted time till 18.05.2020 to vacate the RC schedule premises and handover vacant peaceful possession of the same to the 1st respondent, subject to the petitioner depositing arrears of rent, if any, within four (04) weeks from today and also continues to pay the rent to the 1st respondent till such date. Petitioner shall also file an undertaking within one

¹ 2006(1) ALT 103(DB)

week from the date of receipt of a copy of this order before the Rent Controller in RC.No.30 of 2014 that he would deliver peaceful possession of the property on or before 18.05.2020 to the 1st respondent and also pay the arrears of rent within a period of four (04) weeks from today and would continue to pay the rent till the said date to the 1st respondent. In default of filing such affidavit or paying rents as directed, this order shall stand vacated. No order as to costs.

17. Consequently, miscellaneous petitions *pending* if any shall stand dismissed.

M.S. RAMACHANDRA RAO, J

14th February, 2020.

Note: Issue CC today.
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