

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.956 of 2019

ORDER:

This civil revision petition is filed by the petitioner under Article 227 of the Constitution of India, aggrieved by the order dated 06.03.2019 passed in I.A.No.131 of 2017 in R.C.No.78 of 2017 by the learned IV Additional Rent Controller, Hyderabad, whereby the application filed by the revision petitioner under Section 11(1) of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short "the Act"), seeking to direct the respondents to pay all the arrears of rents amounting to Rs.2,26,800/- for the period from November, 1984 to April, 2017 i.e, for 31 years 6 months @ Rs.600/- per month and continue to pay the future rents pending disposal of the eviction petition, was dismissed.

2. Heard Sri K.K.Waghray, learned counsel for the revision petitioner, Sri P.Badri Premnath, learned counsel for the respondents and perused the record.

3. Learned counsel for the revision petitioner contended that the respondent No.1 obtained the petition schedule premises on lease in the year 1974 from Smt.Aktharunnisa Begum, who is the grandmother of the petitioner herein under oral tenancy and the monthly rent was settled @ Rs.350/- and subsequently, the said rent was enhanced to Rs.600/- per month, to be payable in the succeeding month. It is further contended that respondents had set up a false plea that they had purchased the petition

schedule property under alleged agreements of sale and the respondents are bound to pay the arrears of rent for the period from November, 1984 to April, 2017 @ Rs.600/- per month, totalling Rs.2,26,800/- but the Court below erroneously dismissed the subject Interlocutory Application vide impugned order and ultimately prayed to set aside the same by allowing the Civil Revision Petition as prayed for.

4. On the other hand, learned counsel for the respondents contended that the respondent No.1-firm purchased the petition schedule property from the grandmother of the petitioner i.e, Smt.Aktharunnisa Begum, under agreement of sale dated 27.10.1978 for a sale consideration of Rs.1,20,000/- and the same was acknowledged by the said Smt.Aktharunnisa Begum. The Court below rightly dismissed the subject Interlocutory Application. In support of his contention, learned counsel relied upon the decision reported in *Patanshi Patel vs. Mohd. Kazim Ali Khan and others*¹ and ultimately prayed to dismiss the revision petition.

5. In view of the submissions made by both sides, the point for determination is:

“Whether the respondents can be directed to pay the arrears of rents and monthly rents as claimed by the petitioner?”

6. POINT: As seen from the record, the revision petitioner filed R.C.No.78 of 2017 against the respondents under Section 10(2)(1) of the Act, seeking eviction of the respondents from the

¹ 2003 (2) ALD 627

petition schedule premises on the ground of wilful default in payment of arrears of rents and induct the petitioner in possession of the petition schedule property. Pending the subject R.C, the revision petitioner filed I.A.No.131 of 2017 seeking to direct the respondents to pay the arrears of rents amounting to Rs.2,26,800/- for the period from November, 1984 to April, 2017 and continue to pay the future rents till the disposal of the eviction petition. The Court below vide impugned order dated 06.03.2019, dismissed the subject Interlocutory Application.

7. The specific defence of the respondent No.1 is that the subject premises was purchased by him under the agreement of sale dated 27.10.1978 for a valid sale consideration of Rs.1,20,000/-. The respondent No.1 had seriously denied the jural relationship between the parties as well as the revision petitioner succeeding the suit premises on the death of grandmother of the revision petitioner i.e., Smt.Aktharunnisa Begum.

8. In *Patanshi Patel's* case (supra) relied upon by the learned counsel for the respondents, it was held as follows:

“Para 11: xxxx... In order to secure eviction, for non-payment of rents or for making use of the premises for any other purpose, the respondents shall have to establish the jural relationship of the landlord and the tenant. But in the instant case, the respondents have not established any jural relationship of the landlord and the tenant and the petitioner is continuing in possession in view of the aforesaid two agreements of sale (Ex.R-1 and R-2), and therefore, the respondents have not shown that the default on the part of the petitioner was intentional,

deliberate, calculated of conscious with full knowledge of legal consequences. Here is the tenant, who is the petitioner, felt that he had invested huge amount and paid entire sale consideration of Rs.1,20,000/-and purchased the said property by agreement of sale but due to non-compliance of the other formalities such as, clearances of Income Tax Certificate, Urban Land-Ceiling certificate etc., from the authorities concerned, execution of regular sale deed has been delayed and by reason of non-execution of regular sale deed, the title to the property may not be marketable one but it does not mean that the jural relationship of the landlord and the tenant continues even after executing Exs.R-1 and R-2. It is not the case of the tenant who failed to pay rents without any reason. The reason for non-payment of rent is that he genuinely believed that he had purchased the property and that he was under no obligation to pay it and, therefore, I am of the opinion that this a case which the Rent Controller has rightly held that the jural relationship between the landlord and the tenant has not been established and the Appellate Authority is not right in holding that there is a jural relationship of landlord and tenant by reason of non-execution of a regular sale deed."

It may be noted that the respondent No.1 in the above case is the revision petitioner herein. In the said case, this Court had already held that the jural relationship between the landlord and the tenant has not been established. In the instant case, the Court below is required to determine the jural relationship between the parties to the litigation after due enquiry in the main R.C.

9. Under these circumstances, the conclusion reached by the Court below that the entitlement of any of the party would be determined only after due enquiry in the subject R.C, does not

suffer from any legal infirmity. There is nothing to take a different view. There are no merits in the Civil Revision Petition and the same is liable to be dismissed.

10. Accordingly, this Civil Revision Petition is dismissed. No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 21st January, 2020

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