

HON'BLE SRI JUSTICE A.SANTHOSH REDDY

**CIVIL REVISION PETITION Nos.433, 450, 455 and 476 of
2019**

COMMON ORDER:

Civil Revision Petition No.433 of 2019 is directed under Article 227 of the Constitution of India to set aside the order, dated 12.11.2018, in R.C.C.Appeal No.3 of 2018 on the file of the Senior Civil Judge's Court, Wanaparthy.

Civil Revision Petition No.450 of 2019 is directed under Article 227 of the Constitution of India to set aside the order, dated 12.11.2018, in R.C.C.Appeal No.2 of 2018 on the file of the Senior Civil Judge's Court, Wanaparthy.

Civil Revision Petition No.455 of 2019 is directed under Article 227 of the Constitution of India to set aside the order, dated 12.11.2018, in R.C.C.Appeal No.1 of 2018 on the file of the Senior Civil Judge's Court, Wanaparthy.

Civil Revision Petition No.476 of 2019 is directed under Article 227 of the Constitution of India to set aside the order, dated 12.11.2018, in R.C.C.Appeal No.4 of 2018 on the file of the Senior Civil Judge's Court, Wanaparthy.

2. The petitioners herein are the landlords and the respondents are the tenants and the issue involved in all the revision petitions is one and the same. Therefore, I find that it is expedient to decide by common order.

3. Heard the learned counsel for the petitioners and the learned counsel for the respondents.

3. Petitioner No.1 is the wife of Late Ramachandra Reddy and petitioner Nos.2 and 3 are his sons. It is stated that the petitioners are the owners of the schedule shops in all the four revision petitions. The respondents in all the cases have taken the schedule shops on lease from late Ramachandra Reddy. The petitioners succeeded to the schedule shops as the same was bequeathed by late Ramachandra Reddy under registered Will deed and thereby, the petitioners have become landlords. After expiry of the lease period, the respondents have agreed to enhance the rent. It is also stated the respondents were irregular in payment of the rents. The petitioners stated that they have partitioned the property and they got $1/3^{\text{rd}}$ share to each in the schedule shops. They have decided to dismantle the schedule shop to be partitioned between them and for

construction of new residential quarters. They have also made an application to Town Municipality, Wanaparthy for dismantling the schedule shops. The petitioners have also issued notice to the respondents and the respondents also replied the same. As such, petitioner No.1, on his behalf and on behalf of petitioner Nos.2 and 3 as G.P.A. holder, filed R.C.No.1, 2, 3 and 4 of 2015 under Section 10 (2) (i) (3) (iii) of A.P.Buildings (Lease, Rent and Eviction Control Act, 1960) before the Junior Civil Judge's Court, Wanaparthy. The respondents resisted the same and filed counters. He stated that the petitioners are not all the landlords and also not at all the owners of the schedule shops. Apart from the petitioners, there are other legal heirs to late Ramachandra Reddy. The respondents pleaded that they are paying rent regularly and depositing the same in the bank account of the first petitioner. The construction of the schedule shops is in good condition and there is no need to dismantle the building. It is also stated that the petitioners are having their permanent residential quarters beside the schedule shops and petitioner Nos.2 and 3 are residing in United States of America and they have no occasion to run the

business in the schedule shops. Hence, he prayed to dismiss all the cases.

4. The trial Court framed the following points for consideration in all the cases separately.

- “ 1) Whether the petitioner requires the petition schedule property for their personal use as prayed in the petition?
- 2) Whether the grounds shown by the petitioners are sufficient for eviction of the respondent from the petition schedule property? Or not?
- 3) Whether the respondent committed default in payment of the rents or not?
- 4) To what relief?

5. On consideration of the material record and having considered the contentions of both the parties, the trial Court allowed the above cases vide order, dated 29.06.2018 separately, holding point Nos.1 and 2 in favour of the petitioners/landlords and point No.3 against the petitioners and directed the respondents to hand over the vacant premises to the petitioners within two months from the date of order. Challenging same, the respondents preferred appeals in R.C.C.Appeal Nos.1, 2, 3, and 4 of 2018 before the Senior Civil

Judge's Court, Wanaparthi respectively. The appellate Court having reappreciated the entire evidence on record and allowed the appeals and set aside the orders of the trial Court holding that there is no evidence to establish that the petitioners required the schedule shops for their bonafide requirement for demolition and there is no need and necessity for demolition of the construction thereof and to rebuild the same for residential purpose. Assailing the said orders, the petitioners preferred the above revisions.

6. Learned counsel for the petitioners submits that the petitioners have established bonafide requirement of the schedule shops and the evidence available on record is not properly appreciated by the appellate authority and the findings were not concluded properly and the trial Court has rightly appreciated the evidence and directed the respondents to vacate the schedule shops and handover the vacant premises in all the cases.

7. Learned counsel representing the respondent in all the cases had explained the facts and circumstances and also the findings recorded by the appellate Court and would contend that in the facts and circumstances of the case, the ground of *bona fide* personal

requirement had not been established. As such, the impugned orders do not suffer from any infirmity and prayed to dismiss the revisions. He relied on the judgment of **B.Suresh Babu v.T.Ramakrishnaiah**¹.

8. The main contention of the petitioners is that petitioner Nos.1 to 3 got the schedule property under registered Will deed from late Maram Ramachandra Reddy, who is the husband of petitioner No.1 and father of petitioner Nos.2 and 3 and they are entitled to 1/3rd share in the said property as per Lok-Adalat award in O.S.No.27 of 2012 filed for partition by petitioner No.1 against petitioner Nos.2 and 3. It is the case of the petitioners that they want all the four shops to be vacated and it has to be dismantled and to be partitioned among them and thereafter to construct residential quarters. Admittedly, the petitioners have not adduced any proper and reliable evidence in support of their contentions. More so, after having gone through the impugned orders of the appellate authority, it appears to be relevant to note the para No.3 of the impugned orders, which reads as under:

¹ 2005 (5) ALD 483

“ PW.1, in her cross-examination, clearly admitted that “ it is true that since 30 years petitioner Nos.2 and 3 got settled at United States of America”. “Presently I am not able to do any business due to my old age”. “It is true that my residential house is very behind to petition schedule property”. “It is true that the house in which I am residing is located in a large area”.

The above said admission of petitioner No.1 categorically goes to show that petitioner No.1 is an old lady and not in a position to run the business. Besides that, petitioner Nos.2 and 3 are residing in United States of America. The burden is on the petitioners to establish the factum of bonafide requirement with convincing evidence either oral or documentary. It is pertinent to note that, there is no evidence on record to show that the petitioners have filed any application for approval of the municipal plan for construction of the building. It is also not in dispute that their residential house is located very behind the schedule shops in all the cases. More so, the petitioners have not filed any documents to show that the schedule property was constructed during the year 1950 and it has to be demolished. So also, they failed to file any document to show that they have made an application to Town Municipality, Wanaparthi to dismantle the premises and construction of the residential quarters. The petitioners failed to

produce any reliable evidence, either oral or documentary, in support of their case to prove the bonafide requirement of the premises in all the cases. The inherent improbabilities of the stand taken by the petitioners have been discussed at length by the appellate Court in para No.9 of the impugned orders. Therefore, keeping in view of the findings recorded by the appellate Court, I am of the opinion that there is no ground of bonafide requirement to take the petition schedule shops from the respondents.

9. Apart from the aspect of bonafide requirement, though the petitioners have claimed that the respondents committed default in payment of rents, but on this aspect, both the Courts below have categorically held that the documentary evidence adduced by the respondents established that there is no default on their part in payment of rents. They are paying rents regularly and they never committed default in paying rents. Therefore, the appellate Court has rightly held that there are no bonafidees on the part of the petitioners in praying for eviction. This Court does not see any illegality or unreasonableness in the findings recorded by the

appellate Court. Hence, all the revision petitions are devoid of merits and the same are liable to be dismissed.

10. In the result, all the civil revision petitions are dismissed. However, the present order does not bar the petitioners from reagitating their right of personal or bonafide requirement of the schedule premises, in future, as per the available remedies in law. There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.

A.SANTHOSH REDDY, J

19.10.2022

Nvl