

(2014) 04 KAR CK 0037

In the Karnataka High Court

Case No : Civil Revision Petition No. 5 of 2014 (SC)

Doddaiah

APPELLANT

Vs

N. Narasimha Murthy

RESPONDENT

Date of Decision : 24-04-2014

Acts Referred:

Citation : (2014) 5 KarLJ 89

Hon'ble Judges : Mohan M. Shantana Goudar, J

Bench : Single Bench

Advocate : B.S. Gurudath, Advocate for the Appellant; Harish O.K, Advocate for the Respondent

Judgement

Mohan M. Shantana Goudar, J.—S.C. No. 1759 of 2011 is filed by the respondents herein against the petitioner herein for ejectment from the suit schedule property, which is a commercial shop. The Court below after recording the evidence of the parties and giving due opportunity to them, decreed the suit and consequently directed the defendant-petitioner herein to quit, vacate and deliver vacant possession of the suit property to the respondents herein within three months from the date of judgment. The petitioner herein is also directed to pay the damages at the rate of Rs. 4,500/- per month to the respondents herein from the date of suit till handing over vacant possession of the suit property. This petition is filed by the unsuccessful defendant questioning the judgment and order of ejectment. Sri Gurudath, learned Counsel for the petitioner submits that the petitioner would be satisfied if 1 1/2 year's time is granted to him from today to vacate the premises in question.

Per contra, respondents' Counsel submits that at the most six months' time may be granted to the petitioner herein. He further submits that from the date of filing of the suit, even the rents are not paid.

2. It is no doubt true that petitioner has not paid the rents from the date of suit till this day. Hence, the Court below has directed the petitioner to pay damages

at the rate of Rs. 4,500/- per month from the date of suit till handing over vacant possession to the respondents herein. The said order relating to payment of damages would remain unaltered, inasmuch as the petitioner only wants the time to vacate the premises. The plaintiffs-respondents herein also need the premises for their use and occupation, inasmuch as they want to carry on business in the premises in question. Having regard to the totality of the facts and circumstances, in my considered opinion, interest of justice will be met if the petitioner is granted time to vacate the premises in question upto the end of April 2015 subject to payment of damages of Rs. 4,500/- per month from the date of suit till handing over vacant possession. The petitioner shall file an undertaking to the effect that he would voluntarily vacate the premises within the aforesaid period. Accordingly, the following order is made:

(i) The judgment and order dated 5-10-2013 passed by the Court below directing the defendant/petitioner herein to quit, vacate and deliver vacant possession of the suit schedule property, stands confirmed.

(ii) So also, the order of the Court below relating to payment of damages at the rate of Rs. 4,500/- per month from the date of suit till handing over vacant possession of the suit schedule property, stands confirmed.

(iii) The petitioner herein is granted time to vacate and handover vacant possession of the suit property upto the end of April 2015, subject to payment of damages as aforementioned.

(iv) The petitioner shall file an undertaking before this Court within eight weeks from today to the effect that he would voluntarily vacate and hand over vacant possession of the suit property to the respondents herein on or before 30th of April, 2015 without forcing the respondents herein to file execution petition.

(v) The entire arrears of damages as ordered by the Court below shall be paid by the petitioner within six months from today.

Petition is disposed of accordingly.