

(2012) 10 AP CK 0025

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 2327 of 2012

Immadisetty Nagarathnamma (died) and Others

APPELLANT

Vs

Gostu Prameelamma

RESPONDENT

Date of Decision : 11-10-2012

Acts Referred:

Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 — Section 10(2)(i), 10(2)(v), 10(2)(vi), 10(3)(iii), 9(3)

Citation : (2013) 1 ALD 140 : (2013) 1 ALT 272

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : P. Ganga Rami Reddy, for the Appellant; M. Chalapati Rao, for the Respondent

Final Decision : Allowed

Judgement

C.V. Nagarjuna Reddy

1. This Civil Revision Petition arises out of Order, dated 30-03-2012, in RCA. No. 6 of 2010, on the file of the Court of the learned Principal Senior Civil Judge, Nellore, whereby she has confirmed Order, dated 20-07-2010, in RCC. No. 28 of 1990, on the file of the Court of the learned Rent Controller-cum-Principal Junior Civil Judge, Nellore. The respondent, who is the landlady, filed RCC. No. 28 of 1990 against the husband of late Immadisetty Nagarathnamma, who was the original tenant, in the Court of the learned Rent Controller-cum-Principal Junior Civil Judge, Nellore, for his eviction under Sections 10(2)(i), 10(2)(v) and 10(3)(iii) of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short "the Act"). During the pendency of the Rent Control Case, the original tenant died and Immadisetty Nagarathnamma, who is the wife of the original tenant, and the petitioners herein were brought on record in his place. By Order, dated 07-11-2001, the Rent Control Case was dismissed by negating all the pleas of willful default, the tenant securing alternative accommodation and the landlady having bona fide requirement. Feeling aggrieved by the said Order, the

respondent filed CMA. No. 2 of 2002 before the learned Principal Senior Civil Judge, Nellore. Before the appellate Court, it was pleaded on behalf of the landlady that as the original tenant has denied the title of the landlady, he was liable for eviction only on that ground u/s 10(2)(vi) of the Act. This plea was considered by the lower Appellate Court and the case was remanded to the learned Rent Controller for consideration of the said plea by its Judgment, dated 01-03-2006. After remand, the learned Rent Controller allowed the Rent Control Case by Order, dated 20-07-2010, only on the ground that the original tenant has denied the title of the landlady and that the same is not bona fide. Immadisetty Nagaratnamma and the petitioners herein carried the matter in appeal, which was taken on file as RCA No. 6 of 2010 on the file of the learned Principal Senior Civil Judge, Nellore. During the pendency of the said appeal, Immadisetty Nagaratnamma died. By Judgment, dated 30-03-2012, the learned Principal Senior Civil Judge, dismissed the RCA confirming the order of the learned Rent Controller. Assailing both these Orders, the present Civil Revision Petition is filed by the petitioners.

2. I have heard Mr. P. Ganga Rami Reddy, learned Counsel for the petitioners, and Mr. M. Chalapathi Rao, learned Counsel for the respondent.

3. The only issue that arises for consideration in this Civil Revision Petition is whether there was denial of title by the original tenant and if so, the same is bona fide. The brief background of the case needs to be referred in this context. The original tenant has received notice, dated 29-10-1989 (Ex. B.1) from the Executive Officer of Sri Talpagiri Ranganadha Swamy Temple, Ranganayakulapet, Nellore Town, wherein he has claimed that the said Temple is the owner of the premises in occupation of the original tenant and he was, thereby, called upon to pay the rents to him instead of to the respondent. On receipt of the said notice, the original tenant addressed letter, dated 04-11-1989 (Ex. B.2) to the respondent, informing her that he has received Ex. B.1- notice from the Temple referred to above on 03-11-1989 whereunder he was asked to pay rents to its Executive Officer and that he is going to pay the rents accordingly to the Temple and requested the landlady to send her comments in that regard. In reply thereto, the respondent-landlady has sent letter, dated 09-11-1989, (Ex. A.26) asking the original tenant to continue to pay the rents to her and not to the Temple. Obviously, caught in this cross fire, the original tenant has filed an application before the Rent Controller u/s 9(3) of the Act, which was registered as RCC. No. 80 of 1989 on 06-12-1989 for permission to deposit the rents. The original tenant impleaded the respondent herein and the Temple as the respondents in the said case. After receiving permission from the Rent Controller, the original tenant started depositing the rents into the Court. It is in this backdrop that the plea of the respondent that the original tenant has denied her title needs to be considered.

4. u/s 10(2)(vi) of the Act, denial of title of the landlord by the tenant or claiming a right of permanent tenancy, which is not bona fide, is enumerated as a ground

for eviction.

5. In Paragraph 8 of the amended petition in RCC. 28 of 1990, the respondent has pleaded as under:

The petitioner has been demanding the respondent to vacate the premises on the ground of personal requirement. While promising to vacate, he filed RCC. No. 80 of 1989 on the file of the Court for permission to deposit the rents disputing the title of the petitioner in respect of the petition schedule premises. The petitioner had filed a counter to the said petition and the same is pending. The respondent had thus denied the title of the petitioner to the petition schedule premises and the said denial is not bonafide but made with malafide intentions.

6. In the amended counter-affidavit filed by the original tenant, he has averred as under:

This respondent states that the father of the petitioner Chinni Veeraswamy and of Seshaiah let out the petition schedule premises to this respondent on a monthly rent of Rs. 225/- only in the year 1972 and he has also paid an advance of Rs. 500/- for the due performancy of tenancy. The landlord after a period of three years on the paid of termination of tenancy increased the rent to one of Rs. 250/- only. The petitioner's father died leaving behind the petitioner as has adopted daughter. This respondent was paying rents to the petitioner regularly. The petitioner is her term during the year 1983 on the pain or termination of tenancy unilaterally enhanced the rent to one of Rs. 300/- only. This respondent is paying rent to the petitioner regularly and obtaining receipts from herself or her sons.

It is absolutely false to state that this respondent denied the title of the petitioner and he has bona fide approached the Court to save from the devil and the deep sea occasioned by the counter-claims of the State and the landlord.

7. Both the Courts below have held that by issuing Ex. B.2- notice and approaching the Rent Controller by way of RCC. No. 80 of 1989, the original tenant has denied the title of the landlady and that the same is not bona fide. Having given my earnest consideration to these findings with reference to the above-noted facts, I am of the opinion that the findings of both the Courts below suffer from serious infirmity. The occasion for the original tenant to issue Ex. B.2- Notice as noted above was Ex. B.1- Notice issued by the Executive Officer of Sri Talpagiri Ranganadha Swamy Temple, Ranganayakulapet. As a conscientious person, the original tenant has promptly addressed letter to the respondent by bringing the said fact to her notice and inviting her comments on his proposal to pay the rents to the Temple. Stretching this notice to any extent, the same cannot be construed as the original tenant denying the title of the landlady. Even after issuing Ex. B.2- notice, the original tenant has not paid the rent to the Temple. As soon as he has received Ex. A.26- reply from the respondent, he has approached the learned Rent Controller by filing RCC. No. 80 of 1989 u/s 9(3) of the Act. This, by itself, would indicate that the original tenant, who was drawn

into a deep state of dilemma caught between the devil and the deep sea, has taken recourse to approaching the Rent Controller as he was unable to decide as to who was the real owner of the subject premises. It is really incomprehensible that both the Courts below have treated this act of the original tenant as the denial of title of the respondent. In order to constitute an act of denial of title, it must be established that the tenant has, through his express acts, conveyed to the landlord that he is not the owner of the property or that he is disputing his title either by setting up title in himself or in someone else. No such act was committed by the original tenant in issuing Ex. B.2- Notice. On a holistic consideration of the case, I am of the opinion that the conclusion drawn by both the Fora below are based on perverse appreciation of facts. Therefore, both the orders under revision are set aside.

8. Before parting with this case, it needs to be mentioned that when the case was heard by this Court on 04-10-2012, Mr. M. Chalapathi Rao, learned Counsel appearing for the respondent, brought to the notice of this Court that the petitioners are paying a meagre sum of Rs. 300/- per month as rent for over 30 years. Having regard to this admitted fact, this Court has called upon the learned Counsel for the petitioners to advise his clients to enhance the rent to a reasonable extent to obviate the necessity of the respondents to approach the Rent Controller for fixation of fair rent. Today, Sri P. Gangarami Reddy, learned Counsel for the petitioners, on instructions, submitted that his clients are willing for payment of two or three times the existing rent. Even though this aspect is not the subject matter of this Civil Revision Petition, in order to protect the interests of the respondents as the continuance of the petitioners with the same rent, which is being paid for the last 30 years, is unfair and unreasonable, this Court directs the petitioners to pay Rs. 1500/- per month from November, 2012, pro tempore subject to the right of the respondent to approach the Rent Controller for fixation of fair rent. This ad hoc rent cannot be construed as this Court expressing final opinion on the precise quantum of rent, which the respondent is entitled to receive from the petitioners.

9. Subject to the above direction, the Civil Revision Petition is allowed. As a sequel, interim order, dated 11-06-2012, is vacated and CRPMP. Nos. 3102 and 4934 of 2012 are disposed of.