

(1999) 04 AP CK 0074
In the Andhra Pradesh High Court
Case No : CRP No. 440 of 1999

Nikkanti Ramakrishna

APPELLANT

Vs

Atmakuri Sasikiran and others

RESPONDENT

Date of Decision : 08-04-1999

Acts Referred:

Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 — Section 10(3)

Citation : (1999) 3 ALD 8 : (1999) 3 ALT 264 : (1999) 1 APLJ 442

Hon'ble Judges : Krishna Saran Shrivastav, J

Bench : Single Bench

Advocate : Mr. P.R. Prasad, for the Appellant; Mr. T. Veerabhadrayya and Ex parte in lower Court, for the Respondent

Judgement

1. This revision petition is directed against the order passed by the Subordinate Judge, Tanuku, in CMA No.45 of 1997 dated 22-12-1998.

2. It is no longer in dispute before me that the suit accommodation is a non-residential building and the petitioner was a tenant. Respondent Nos.1 to 4 are the children of the deceased late Rangaraju, respondent No.5 is his wife and respondent Nos.6 and 7 are his brothers. The said Rangaraju had filed an application for ejectment of respondent Nos.8 and 9, alleging that they were his tenants, on the ground of wilful default and bona fide need of the suit accommodation for starting new business after demolition of the suit accommodation and its re-construction, because it had become dilapidated. The petitioner got himself impleaded as a party to the case on the ground that he was the real tenant in respect of the suit accommodation. After examination of late Ramaraju, he expired and respondent Nos. 1 to 7 were impleaded as applicants in his place. They did not adduce any further evidence. They had filed IA No.5119 of 1996 for amending the petition, but it was rejected by Rent Controller on 11-3-1997.

3. The Rent Controller on assessment of the evidence found that even with the death of the original applicant-Rangaraju, the bona fide need for the suit

accommodation did not cease to exist and the applicants need bona fide the suit accommodation for starting a new business, and ordered the petitioner to vacate the suit accommodation. The Rent Controller had found that the petitioner is not liable to be ejected on the ground of wilful default in payment of rent. The petitioner preferred an appeal before the Subordinate Judge, Tanuku, but without success.

4. Feeling aggrieved by the dismissal of the appeal, the tenant has preferred this revision petition.

5. With the consent of the learned Counsel of both sides, the revision petition has been heard on merits.

6. Learned Counsel of the petitioner has argued that the lower appellate Court has erred in holding that even with the death of original applicant-Rangaraju the need for starting a new business continued because late Rangaraju has specifically pleaded that he wanted to start his own business in pharmaceuticals as he has left his job. There is no evidence on record that respondent Nos.1 to 7 ever desired to start business in pharmaceuticals or any other business. The appellate Court has wrongly relied on the case in V.V. Krishna Vara Prasad Vs. S. Surya Rao and Others, . On the other hand, learned Counsel of respondent Nos.1 to 7 has contended that the suit accommodation belongs to the joint Hindu family consisting of respondent Nos.1 to 7. The deceased-Ramaraju being eldest member of that family and Kartha of Hindu Joint family property and he has stated on oath that the family had decided to reconstruct the suit accommodation and then to start business and therefore the need of the accommodation was bona fide need of the joint Hindu family and not only for the benefit of the deceased-Rangaraju and therefore both the Courts have rightly found that the respondents-applicants need bona fide the suit accommodation for business purpose.

7. True that in para 4 of the application it is mentioned that the deceased-Rangaraju being eldest male member of the family was managing the properties. But, on perusal of para 6 of the application it does not appear that the family wanted to demolish the dilapidated suit accommodation and to reconstruct it for the purpose of starting business for the benefit of the family. The reason is that in para 6 it is alleged that the deceased petitioner wanted to construct a pucca business complex as the building has become dilapidated and also wanted to utilise the premises for his own use. It has also alleged that he is young educated graduate and was employed for sometime in the pharmaceuticals and gave up the employment and wanted to take self-employment" Thus, it is crystal clear that the deceased-Rangaraju wanted the suit accommodation for starting his personal business because he had left the job. It is not the case of respondent Nos.1 to 7 that in order to continue the business of the joint Hindu family, the suit accommodation was required, but it has been specifically alleged that because Rangaraju had left his job and he wanted to take self-employment. He genuinely require the accommodation for starting his own business. I get

from the evidence of late Rangaraju-PW1 that he wanted the accommodation for starting his own business. There is no whisper in his deposition that he wanted to continue or start the business for the benefit of the family. The case in K y. Krishna Vara Prasad (supra) is of no assistance to respondent Nos.1 to 7 because the petitioner does not claim after the death of landlord, the heirs are not entitled to seek eviction on the ground of personal requirement. But the grievance of the petitioner is that there is no iota of evidence on record that the family ever required the accommodation for starting business. Respondent Nos.1 to 7 did not enter into the witness box. Under the circumstances, merely because late Ramaraju was the manager of the joint Hindu family, which owns the accommodation, it cannot be said that the requirement was the requirement of the joint Hindu family. It is not out of place to mention that in the application for the proposed amendment respondent No.8 wanted to plead that he required the suit accommodation for his own business.

8. For the foregoing reasons, disagreeing with the Courts below, I hold that respondent Nos.1 to 7 have miserably failed to establish that the suit accommodation is required bona fide by them for starting a new business. The manner in which the evidence has been assessed and the conclusion drawn by the Courts below is wrong and, therefore, the impugned order is liable to be set aside.

9. In the result, the Civil Revision Petition is allowed and the impugned order of ejectment is set aside, and the application for ejectment is dismissed. However, in the circumstances of the case I leave the parties to the revision to bear their own costs.