

Bheem Singh Vs. Hemavathi

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Court : Karnataka

Decided On : Nov-04-1985

Reported in : ILR1986KAR987

Judge : K.A. Swami, J.

Acts : Karnataka Rent Control Act, 1961 - Sections 21(1)

Appeal No. : C.R.P. No. 3371 of 1985

Appellant : Bheem Singh

Respondent : Hemavathi

Advocate for Pet/Ap. : G.C. Keshava Reddy, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

K.A. Swami, J.

1. This Civil Revision Petition under Section 50 of the Karnataka Rent Control Act, 1961 (hereinafter referred to as the 'Act') is preferred against the order dated 24-7-1985 passed by the Learned 12th Additional Small Cause Judge, Bangalore, in H. R.C. No. 2196 of 1982.

2. The respondent-landlady filed a Petition for eviction of the petitioner from the schedule premises on the grounds falling under Section 21(a)(h) and (p) of the Act. The case of the respondent-landlady was that she had no income except Rs. 300/- per month which she was getting by way of rent; that the same was not sufficient to meet the expenses of the family ; that in order to maintain the family it was necessary to augment the income of the family ; therefore, she intended to carry on business of grinding and also selling vegetables in the schedule premises ; that the petitioner-tenant was in arrears of rent and he was a defaulter ; that he had acquired alternative suitable accommodation. The petitioner-tenant disputed the case pleaded by the respondent-landlady.

3. On the basis of the evidence on record, the Trial Court has come to the conclusion that no case is made out under Section 21(1)(a) of the Act ; that the respondent-landlady has established that she bona fide and reasonably requires the premises for running the business ; that greater hardship would be caused to her if no order of eviction is passed ; that the petitioner has acquired alternative suitable premises. Accordingly, the Trial Court has passed an order of eviction under Section 21(1)(h) and (p) of the Act.

4. It appears to me that the ground made out under Section 21(1)(p) of the Act. by the Trial Court cannot be sustained in view of the fact that the petitioner had acquired the premises even before he became the tenant of the schedule premises. It is only when the tenant has built, or acquired vacant possession of, or been allotted a suitable building the provisions of Section 21(1)(p) of the Act are attracted and not otherwise. Any one of the aforesaid events must take place only after the person becoming the tenant of the premises from which he is sought to be evicted. If any one of or all of the events had taken place even before the person became the tenant of the premises from which he is sought to be evicted the provisions of Section 21(1)(p) of the Act are not attracted because the expression used in Section 21(1)(p) of the Act is that 'the tenant..... has built, or acquired vacant possession of, or been allotted a suitable building'. In the instant case, the petitioner had not become the tenant of the premises in question when he acquired the other accommodation. On the date he became the tenant of the premises in question he was already in possession of the other premises.

Therefore, the Court below is not right in applying Section 21(1)(p) of the Act and passing an order of eviction on that ground. However, this conclusion does not help the petitioner in view of the fact that the eviction order is sustainable on the ground falling under Section 21(1)(h) of the Act.

5. The contention of Learned Counsel for the petitioner is that the respondent-landlady has let out another premises which fell vacant, therefore there are no bona fides on her part seeking eviction of the petitioner from the schedule premises in as much as if at all she wanted to carry on business in order to augment her income, she would have very well carried on the business in the other premises which fell vacant. This contention has not been accepted by the Trial Court. The evidence is also read over to me by Learned Counsel for the petitioner-tenant. The finding recorded by the Trial Court is that it was during the life time of the father-in-law of the respondent the other premises fell vacant, and it was the father-in-law of the respondent who let out the other premises and no premises was let out by the petitioner after she became the landlady on the death of her father-in-law. The father-in-law of the respondent was the landlord of the premises. The respondent had no right in the schedule premises and the other premises during the life time of her father-in-law. Therefore, it is not possible to hold that the respondent landlady let out the premises, and as such she does not bona fide and reasonably require the schedule premises for conducting business by her in order to augment her income to enable her to maintain her family. The evidence on record further discloses that the husband of the respondent-landlady is residing with his another wife and the respondent-landlady is not maintained by her husband and she, has no other income except the income by way of rent of Rs. 300/- per month which she is getting from the other premises. Under these circumstances, if the respondent-landlady, in order to augment her income to enable her to maintain her family, wants to start the business of grinding as well as vegetable vending in the schedule premises, it is not possible to hold that such a claim of the landlady lacks in bona fides and is unreasonable. Therefore, I do not see any justification to interfere with the finding recorded by the Trial Court that respondent-landlady reasonably and bona fide requires the schedule premises for her own use.

6. The respondent-landlady is not having sufficient income to enable her to maintain her family, she requires the schedule premises for the purpose of running a business in order to augment her income to enable her to maintain her family. Whereas the petitioner-tenant is having another premises situated opposite to the schedule premises, in which he can very well run his laundry. Therefore, it is the respondent-landlady who would be put to greater hardship if no order of eviction is passed. Under these circumstances, the Trial Court is justified in recording the finding that the respondent-landlady would be put to greater hardship if no order of eviction is passed.

7. For the reasons stated above, I do not see any justification to interfere with the order of eviction. The Civil Revision Petition is accordingly dismissed.

8. The premises is a non-residential premises. The petitioner-tenant is carrying on laundry business. In a City like Bangalore, it is not possible to secure alternative accommodation within a period of three months as granted by the Trial Court ; therefore, the petitioner is granted time till the end of August, 1986 to vacate and to deliver vacant possession of the schedule premises to the Respondent-landlady on conditions that he pays all the arrears of rent if any on or before the end of December, 1985 and continues to pay the amount equivalent to the rent which he has been paying so far, on the 15th of each month during the period he is permitted to occupy and files an undertaking before the Trial Court on or before the end of December, 1985 to the effect that he will voluntarily vacate and deliver vacant possession of the schedule premises to the Respondent ; that he will not induct third parties into the premises ; that he will not cause damage to the schedule premises. If the petitioner fails to comply with any one of the aforesaid conditions, it is open to the Respondent-landlady to proceed to execute the order of eviction irrespective of the fact that the time granted by this Court has not expired.