

P. Ranganathan Vs. C. Anjaneya

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Court : Karnataka

Decided On : Mar-02-1999

Reported in : AIR2000Kant31; ILR1999KAR1660; 1999(4)KarLJ243

Judge : B.N. Mallikarjuna, J.

Acts : Karnataka Rent Control Act, 1961 - Sections 21(1) and 50(1)

Appeal No. : House Rent Revision Petition No. 588 of 1996

Appellant : P. Ranganathan

Respondent : C. Anjaneya

Advocate for Def. : Sri M.M. Poonacha, Adv.

Advocate for Pet/Ap. : Sri M.G. Javeed Ahmed Khan, Adv.

Judgement :

ORDER

1. This revision under Section 50(1) of the Karnataka Rent Control Act, 1961 by the tenant is against the order of eviction under Section 21(1)(a) of the Act, dated 25-1-1996 of the 13th Additional Judge of Small Causes Court, Mayo Hall, Bangalore in HRC 10209 of 1995. The respondent is the landlord of the premises.

2. Heard Sri Javeed Ahmed Khan and Sri Poonacha, learned Counsel for the respective parties. Hereinafter, I would refer to the landlord as petitioner and the

tenant as respondent for the purpose of convenience.

3. It is undisputed that the respondent is the tenant of the disputed premises and the agreed rent is Rs. 300/- per month. On 14-6-1995 petitioner instituted eviction proceedings under Section 21(1)(a) of the Karnataka Rent Control Act (hereinafter referred to as 'The Act') on the ground that despite the notice demanding arrears of rent for the period from 1-7-1992 to 24-8-1994 amounting to Rs. 8,100/-, the respondent did not pay or deposit the said amount within two months from the date of receipt of the notice nor he has shown any cause for not paying the rent.

4. Respondent resisted the petition contending inter alia that no rent was in arrears, rent as and when accrued is paid to the landlord and the landlord was not in the habit of issuing receipts. Averments in the petition that he is a defaulter is without any substance and the application for eviction is not maintainable. In the evidence before Court he tried to say that he was unwell and he being a chronic patient, was admitted in hospital now and then. In fact he was an in-patient in NIMHANS at Bangalore City for a considerable length of time and therefore he was unable to pay the rent regularly and promptly. It may also be noted that the respondent-tenant after his appearance in eviction proceedings in Court on 14-8-1995 made payment of Rs. 11,100/- towards the arrears of rent.

5. Sri Javeed Ahmed Khan, learned Counsel for the revision petitioner submits that the notice Ex. P-I is not a valid notice in law and therefore the order impugned is not sustainable. Secondly, he contended that though sufficient cause has been shown for non-payment of the rent within two months, the Trial Court has ignored this aspect of the matter and therefore the order is not sustainable. Lastly, he contended that the Trial Court having not given him time to pay the rent as required under Section 21(2)(iii), the impugned order needs to be set aside.

6. Per contra, Sri Poonacha, learned Counsel contends that the respondent has not complied with the demand made in the notice under Section 21(1)(a) of the Act within two months from the date of its receipt and therefore he is not entitled to any sympathy. The cause shown is not sufficient. The respondent cannot be heard to say that he has shown cause, having denied at the first instance the default in payment of rent regularly and setting up a false plea that no receipt was given as

against each payment. The Trial Court has taken into consideration every aspect of the matter and has rightly concluded that the tenant has not complied with the mandatory requirement of Section 21(1)(a) of the Act. He also submitted that the notice is valid and there is demand asking him to pay the arrears of rent as on that day within two months from the date of receipt of notice and as such there is no substance in the arguments that the notice is not valid in law.

7. I have given anxious consideration to the rival submissions. Though by and large, the provisions of the Rent Control Act are totally biased in favour of the tenant and the object is to protect the interest of the tenant, sufficient care is also taken to safeguard the landlord's interest in the matter of rent. All protections are provided to a tenant who is prompt and regular in paying the rent. In certain circumstances, he is also protected if he has sufficient cause for non-payment of the rent promptly. But not in cases where the tenant commits willful default or withholds the payment of rent deliberately. Therefore, the tenant who seeks protection under the Act is required to discharge his duties and convince the Court that he had sufficient cause for non-payment of the rent more significantly when a demand notice under Section 21(1)(a) of the Act is served on him. Suffice it to say that the landlord who seeks eviction under Section 21(1)(a) is required to issue a notice calling upon the respondent-tenant to pay the arrears within two months from the date of receipt of the notice. The tenant is equally required to pay or deposit the whole of the arrears of rent within two months from the date of receipt of notice or in the case of non-payment to show sufficient cause for non-payment of the rent during that relevant period.

8. On a perusal of Exs. P-1 and 2, one can safely say that there is notice under Section 21(1)(a) and the tenant has sent his reply within two months from the date of receipt of that notice. Further, the evidence also establishes that the respondent has failed to pay or deposit the arrears of rent claimed in Ex. P-1 within two months from the date of notice. I may note here that the notice dated 24-9-1994 has been received by the tenant and immediately thereafter he replied it on 4-10-1994. There is no definite evidence when exactly he received the notice. But the two dates referred to above clearly demonstrate that the tenant had received the notice and within two months thereafter he replied. But, he failed to comply with

the demand made in the notice, he neither paid nor deposited the arrears of rent within two months as provided under Section 21(1)(a) of the Act. Thereafter, petition under Section 21(1)(a) was filed and admittedly the tenant deposited the rent in Court on 14-8-1995.

9. What the defence pleaded both in the reply notice and the objection statement is that no rent was in arrears and the landlord was not in the habit of issuing receipts for the rent received. However, very curiously he deposited a sum of Rs. 11,100/- in Court on 14-8-1995 after filing of eviction petition though he had received the notice under Section 21(1)(a) on a day in between 24-9-1994 and 4-10-1994.

10. In the circumstances, there is no merit in the contention that Ex. P-1 is not a valid notice. The second argument is that even though there was arrears of rent, the tenant has shown sufficient cause and that has not been considered by the Trial Court. Even here, I find no substance in the arguments. The tenant at the first instance contends that he had paid the entire arrears of rent. But, he made the payment in Court on 14-8-1995 after about 10 months after the receipt of notice and that too after initiation of eviction proceedings. The statement of objection was filed on 16-10-1995 viz., after depositing the arrears of rent in Court. Even then he persisted that there was no arrears of rent. The reason explained was that he was hospitalised and therefore he could not pay the rent regularly and promptly. In a case of this nature, the tenant is required to explain the non-payment of rent regularly and promptly. But there is absolutely no evidence worth the credence that the tenant had any cause for non-payment of the rent regularly or at least after the receipt of notice. In the circumstances, Court below was right in saying that the plea projected may be one of the methods adopted by the tenant to cover up the default in the matter of payment of rent. At the hearing, it is also shown that even subsequent to the said deposit, the rents are not paid regularly as and when it accrued as required under Section 29(1) of the Act. Arrears of rent amounting to Rs. 11,100/- is paid only on 25-2-1999 viz., during the pendency of this revision. In the circumstances, I hardly find any reasons to say that the respondent has shown cause for non-payment of rent within two months from the date of receipt of notice Ex. P-1. There is no substance in the arguments that the order suffers either from

illegality or irregularity. Hence the revision petition fails.

11. Sri Javeed Ahmed Khan, learned Counsel for the petitioner herein, submits that certain reasonable time may be granted to the revision petitioner-tenant to vacate and handover vacant possession to the landlord.

12. Sn Poonacha, learned Counsel for the respondent-landlord submits that any reasonable time may be granted, subject to the condition that the tenant continues to pay the rent regularly and promptly as and when it accrues.

13. Having regard to the facts and circumstances of the case, I feel it is just and proper to grant a year's time to vacate and hand-over vacant possession provided the tenant-revision petitioner herein continues to pay the rent regularly and promptly as and when it accrues.

14. In the result, this revision is dismissed. The revision petitioner-tenant is granted time to vacate and hand-over vacant possession of the premises on or before 31-3-2000, on condition that he shall continue to pay the rent as and when it accrues.

The revision petitioner-tenant shall file an affidavit in the above term and also with an undertaking that he would vacate and hand-over vacant possession on or before 31-3-2000 without asking for any extension of time. In the circumstances, the parties to bear their own costs.

15. Whatever amount that is deposited in this Court being the arrears of rent during the pendency of this revision shall be paid to the landlord-respondent. The respondent-landlord is also at liberty to move the Trial Court for withdrawal of the amount that is in deposit in that Court.