

Abdul Basheer Vs. Rudraswamy

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Court : Karnataka

Decided On : Nov-09-1995

Reported in : ILR1995KAR3628

Judge : M.B. Vishwanath, J.

Acts : Karnataka Rent Control Act, 1961 - Sections 21 and 21(1); [Code of Civil Procedure \(CPC\) , 1908](#) - Order 6, Rule 17

Appeal No. : HRRP No. 1223 of 1995

Appellant : Abdul Basheer

Respondent : Rudraswamy

Advocate for Def. : M. Papanna, Adv.

Advocate for Pet/Ap. : T.N. Raghupathy, Adv.

Disposition : Revision petition rejected

Judgement :

ORDER

Vishwanath, J

1. Heard. Admitted.

2. In this Revision Petition filed by the tenant, the Order passed by the learned Principal District Judge, Mysore, on 7.8.1995 in Revision (Rent) No. 131/1995 allowing the Revision Petition and setting aside the Order passed by the learned III Addl. First Munsiff, Mysore, in H.R.C. No. 411/1987 on 7.4.1995 dismissing I.A.III under Order VI Rule 17 CPC has been challenged.

3. The learned Munsiff dismissed I.A.HI under Order VI Rule 17 C.P.C. The learned District Judge, in the revision allowed I.A.III and permitted the landlord to incorporate the ground under Section 21(1)(h).

4. The facts necessary to decide the present Revision are:-

The Eviction Petition 411/1987 was filed earlier by the landlord S. Krishnaswamy against the present Revision Petitioner-tenant, under Section 21(1)(b)(d) and (o) of the Act. Subsequently, the present respondent in this Revision Petition Sri P. Rudraswamy purchased the property from Krishnaswamy. This Krishnaswamy has been brought on record as landlord.

The present landlord filed I.A.III under Order VI Rule 17 C.P.C. praying that he should be permitted to amend the main Eviction Petition to include the ground under 21(1)(h) of the Karnataka Rent Control Act apart from the two grounds which were already there. In the amendment application he has made averments of reasonable and bonafide requirement of the petition schedule premises.

The learned Munsiff rejected the amendment. Against the said Order the landlord preferred Revision Petition before the learned District Judge. The District Judge relying on the Decision of the Court reported in : ILR 1986 KAR1859 J.S. Karole v. G.C. Angolkar wherein it has been laid down that the 'landlord' includes persons deriving title from original landlord, successors-in-interest or transferees of interest from original landlord, allowed the Revision Petition and ordered that the I.A.III should be allowed. This Order has been challenged by the Revision petitioner-tenant in this Revision Petition.

It should be clearly borne in mind, in the peculiar circumstances of this Revision Petition that the landlord who is a subsequent purchaser from the earlier landlord

who had filed the Eviction Petition has already been brought on record as landlord. It appears that an amendment application was filed and it was allowed and that is how the present landlord has come on record.

5. The learned Counsel for the Revision-petitioner-tenant relied on the Decision relied upon by the learned District Judge. He relied on the observation at page 1864 wherein this Court has held:-

'It is not personal to the owner as long as it is not based on the ground of bonafide personal use and occupation. Thus, the right to seek possession on the ground of unlawful sub-letting is a personal right.'

6. In the instant case, no sub-letting, which is personal to the earlier landlord, is involved. The present landlord, who is the subsequent purchaser, has prayed that he should be permitted to amend the Eviction Petition to include the ground under Section 21(1)(h) of the Karnataka Rent Control Act since he requires the premises reasonably and bonafide. It is argued by the learned Counsel for the Revision petitioner that if the amendment application is allowed the cause of action will change, Naturally so. That is no ground to reject the amendment prayed for.

7. In the amendment prayed for, as I see,

(i) question of limitation does not arise;

(ii) the subsequent purchaser who has come on record need not be driven to separate eviction proceedings;

(iii) multiplicity of proceedings can be prevented;

(iv) the tenant will not be put to any prejudice because he will be given an opportunity to file objections and contest the matter.

For the aforesaid reasons, I am of the opinion that the impugned Order passed by the learned District Judge allowing the amendment is not perverse or illegal.

The Revision Petition is rejected.

