

Andhra High Court

C. Baburao vs R. Krishna on 16 November, 1995

Equivalent citations: 1996 (2) ALT 547

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Bench: K Siddappa

ORDER K.B. Siddappa, J.

1. This Revision is filed against the Judgment Passed in R.A.No. 94/91 on the file of the Chief Judge, City Small Causes Court, Hyderabad. The landlord is the petitioner herein. He had filed the Rent Case against the tenant on 2 grounds: 1. Wilful default and 2. Bona fide requirement. The Rent Controller after considering the evidence on record, held that the tenant has not committed any wilful default in payment of rents from February, 1988 to April, 1988. On the 2nd point also he held that the landlord could not make out a case for bona fide requirement. Consequently, the Rent Case was dismissed. Against that order, the landlord carried the matter in appeal before the appellate Court i.e. Chief Judge, City Small Causes Court, Hyderabad. He also held, both the grounds against the landlord and consequently dismissed the appeal with costs. Aggrieved by the said Judgment the present revision is filed.

2. The learned counsel appearing for the petitioner has submitted that the landlord has made out a case for bona fide requirement. The lower Court erred in holding that the petitioner did not state as to the nature of business he wants to start and that the landlord has not taken licence to start the business. It is also held that landlord has no funds to invest in the business. Therefore, there was no bona fide requirement for the landlord. The petitioner herein admittedly is a youngman, belongs to business community and is unemployed. This is the only mulgi available to him and therefore, to eke-out his livelihood, he bonafidely requires this premises. Not only that, subsequently he got money and he is ready to invest in the business. In support of his contention he relied upon a decision in B. Eswaramma v. A. Appu Rao, 1988 (1) ALT 366 = AIR 1988 A.P. wherein it was held that:

Non-mention of the nature of business and other particulars in the petition itself is not a ground for dismissing the petition.

He also relied upon a decision in K.N. Suryanarayana Setty v. K. Sattarkhan and Ors., wherein it was held that:

"Landlord who bonafidely intends to start the business may not give particulars of the business".

He further relied upon a decision in Mattulal v. Radhelal, . In this case it was held:

"Bonafide requirement should be liberally considered"

3. The learned counsel further submitted that the petitioner herein has non sufficient finance to start his business. He and his mother have invested Rs. 20,000/- in the form of F.D.R. in State Bank of Hyderabad. The maturity date of that FDR is 30-12-1995. Not only that, he has taken chit for the

value of Rs. 51,000/-. He can draw the amount at any time and invest in the business. The learned Counsel submitted that these subsequent events can also be taken into consideration to mould relief suitably. In support of his contention he relied upon the Supreme Court decision in Ramesh Kumar v. Kesho Ram, .

4. I see considerable force in the submission made by the learned counsel for the respondent (sic. petitioner). The lower Court mainly dismissed the claim of the landlord on the ground that he has no finance and he has no capacity to start the business. It cannot be disputed that the petitioner is a young man and unemployed. Certainly he has to start some business to eke-out his livelihood. It is true that both the Courts held against the landlord but the concurrent findings can be disturbed if warranted by subsequent events and other circumstances. In this view, I am fortified by the judgment of our High Court reported in 1989(2) APLJ 261. In view of the above facts, the Revision is liable to be allowed. Hence, this Revision is allowed, in the circumstances without costs. Consequently the orders of the lower Courts are set aside. The tenant is directed to vacate the premises within 4 months from to-day and he is also directed to pay the rents regularly during this period also.