
(2004) 1 KarLJ 251

Karnataka High Court

Case No: House Rent Revision Petition No. 141 of 2001

Smt. Pushpa

APPELLANT

Vs

N.C. Venkatappa

RESPONDENT

Date of Decision: Nov. 21, 2003

Acts Referred:

Civil Procedure Code, 1908 (CPC) " Section 115#Karnataka Rent Act, 1999 " Section 27
(2) (r), 70 (2)

Citation: (2004) 1 KarLJ 251

Hon'ble Judges: A.V. Srinivasa Reddy, J

Bench: Single Bench

Advocate: M. Ram Bhat, for the Appellant; B.G. Namitha Mahesh, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

A.V. Srinivasa Reddy, J.

This revision u/s 115 of the CPC is preferred by the tenant against the order dated
13-11-2000 passed by the

learned District Judge, Mysore in Revision (Rent) No. 142 of 1994 setting aside the order
dated 22-6-1994 passed by the learned I Munsiff,

Mysore dismissing the eviction petition filed by the landlord under Clause (h) of Section
21(1) of the Karnataka Rent Control Act, 1961 ("old

Act" for short).

2. Heard the learned Counsels for both parties.

3. During the pendency of this revision the old Act was repealed u/s 70 of the Act, the Karnataka Rent Act, 1999 ("the Act" for short). By virtue

of Clause (b) of Sub-section (2) of Section 70 of the Act, all pending proceedings have to be continued and disposed off by the Court in

accordance with the provisions of the Act.

4. For the sake of brevity and convenience the parties are referred to as "landlord" and "tenant" in the course of this order.

5. The landlord filed the petition for eviction under Clause (h) of Section 21(1) of the old Act claiming that his family consists of himself, his wife, 3

sons and one daughter and that the accommodation, now available with them is grossly insufficient to meet their requirement. The learned Munsiff

having disbelieved the claim of the landlord for self-occupation dismissed the eviction petition. The landlord took the matter in revision before the

Court below. The learned District Judge disagreed with the negative finding recorded by the Rent Control Court on the question of requirement of

the premises by the landlord for self-occupation and allowed the eviction petition. The tenant being aggrieved by the order of eviction has,

therefore, presented this revision u/s 115 of the Code of Civil Procedure.

6. The Court below found that there are as many as 9 adult members and several grandchildren who have to be accommodated and the

accommodation that is now available with him is insufficient for the whole family to live peacefully. The landlord had pleaded that he needs the

petition premises to accommodate one of his sons so that the misunderstanding and bike rings between the family members would come to an end.

The landlord has been living with his wife, three major sons and one daughter. One of the sons who was examined as P.W. 2 got married and he is

living with his wife in the petition premises. It has also come on record that he has several grandchildren. Though the landlord also pleaded want of

accommodation in the premises presently in his occupation, the principal need pleaded by the landlord for occupying the petition premises is that

there has been some misunderstanding amongst the womenfolk and, therefore, he requires the petition premises to accommodate his son P.W. 2.

The Court below has rightly pointed out in the course of its order that when the principal case pleaded was not only want of accommodation but

also want of proper understanding between the members of the family, the Rent Control Court could not have denied the relief to the landlord on

the ground that there is sufficient accommodation in the premises presently in occupation of the landlord. The need for occupation of another

premises could arise not merely because the present accommodation is insufficient but also because there is misunderstanding between the

members of the family and in order to buy peace some one has to move out and live separately. From the facts, it is quite clear that the landlord

has not only pleaded his case but has also spoken about it in detail in his evidence. In this fact situation, the Rent Control Court was at error in

dismissing the eviction petition solely on the ground that there is sufficient accommodation in the premises presently in the occupation of the

landlord. The order passed by the Court below setting aside the said order of dismissal requires no interference in this revision u/s 115 of the CPC.

7. The learned Counsel for the tenant cited the decisions in T. Sivasubramaniam and Others Vs. Kasinath Pujari and Others, and Ram Narain

Arora Vs. Asha Rani and Others, In T. Sivasubramaniam's case, supra, the Apex Court held that a mere desire can never take the place of

requirement and a requirement in order to result in an order of eviction should have an element of "must have" to it. From the pleadings put forth by

the landlord and the evidence adduced in the case, it can never be said that the need pleaded by the landlord is a mere wish. In Ram Narain

Arora's case, supra, the Apex Court has held that where the Rent Controller rejected the eviction petition for non-disclosure of a fact, interference

by the Revisional Court on the ground that such non-disclosure was not fatal to the case is justified. In the present case, the Revisional Court

interfered with the order of the Rent Control Court on the ground that the dismissal of the eviction petition on the ground of sufficiency of present

accommodation available to the landlord without considering the other ground of disharmony in family specifically pleaded as ground for seeking

eviction of the tenant, is bad in law. Applying the principle in Ram Narain Arora's case, it must be held that such interference by the Revisional

Court cannot be termed as unjustified or uncalled for as non-consideration of one of the grounds amounts to failure to exercise jurisdiction vested

in the Court and the Revisional Court can interfere and set at naught any injustice arising from such failure to exercise jurisdiction. The Rent Control

Court had completely overlooked and eschewed from its consideration, the need pleaded by the landlord on the ground of the misunderstanding

between the members of the family and proceeded only on the basis of sufficiency or insufficiency of the present accommodation. When a landlord

sets up a case based on several grounds, even if he could succeed on one of the several grounds urged, it is the duty of the Court to grant the relief

on that ground. When more than one ground is urged for its consideration by pleading the basic fact the Rent Control Court was duty-bound to

consider all grounds. The Court cannot consider one and discard the other. The Court below has given proper reasons as to why the case put

forth by the landlord on the basis of the misunderstanding that exists in the family has to be accepted. This Court finds that the reasoning adopted is

fair and proper and requires no interference at all in exercise of the limited jurisdiction u/s 115 of the CPC. Viewed from this angle the Court below

was perfectly justified in interfering with the order passed by the Munsiff. Therefore, the principle cited in T. Sivasubramaniam's case, supra, only

advances the case of the landlord and not that of the tenant.

8. As already stated, with effect from 31-12-2001, the Karnataka Rent Act, 1999 has come into effect and in terms of Section 27(2)(r) of the

Act, the landlord would be entitled to an order of eviction if the landlord establishes that he requires it for any person for whose benefit the

premises is held. It is not shown by the tenant that there is any suitable premises other than the petition premises was available to the landlord to

accommodate his son P.W. 2 and that he could be accommodated there. In the absence of any other suitable accommodation to accommodate

P.W. 2, for whose benefit the landlord is seeking the petition premises, Explanation I to Section 27 of the Act would come into play and a

presumption has to be drawn that the requirement pleaded is real and genuine. As a natural corollary of such legal presumption, it must be held that

the landlord is entitled to an order of eviction against the tenant.

9. In the result, for the reasons stated above, there is no merit in this revision and it is, accordingly, dismissed. The tenant is given three months"

time to quit and deliver vacant possession of the premises to the landlord.