

(2006) 04 AP CK 0075

Andhra Pradesh High Court

Case No: CRP No. 1819 of 2006

M.A. Aziz

APPELLANT

Vs

Dr. Mohd. Abdul Quddus

RESPONDENT

Date of Decision: April 27, 2006

Citation: (2006) 4 ALD 275 : (2006) 4 ALT 712

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: Syed Naimullah Shakeel, for the Appellant; N. Ashok Kumar, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

L. Narasimha Reddy, J.

The petitioner is a tenant in respect of premises bearing No. 16-2-600. Initially, it was owned by one Mohd. Abdul Raheem. Stating that the said property was gifted to him by the original owner, through a gift deed dated 29-8-1988, the respondent filed R.C. No. 138 of 2000, before the I Additional Rent Controller, Hyderabad, against the petitioner, seeking eviction. The respondent pleaded that the petitioner committed wilful default in payment of the rents, denied his title and that the premises are needed for his bona fide requirement. He made a reference to the earlier proceedings that ensued between him and the petitioner, and pleaded several facts.

2. The petitioner resisted the eviction petition, by pleading several grounds. He stated that the respondent is not the owner of the premises, and that there are no arrears of rent. It is also his case that the respondent owned several premises and the requirement pleaded by him is not bona fide. On a consideration of the rival contentions, the learned Additional Rent Controller recorded findings in favour of the respondent herein, on all the points, and ultimately directed eviction of the

petitioner. Aggrieved thereby, the petitioner filed R.A. No. 10 of 2003, before the Additional Chief Judge, City Small Causes Court, Hyderabad. The appellate Court dismissed the R.A., through order dated 8-2-2006. Hence, this C.R.P.

3. Learned Counsel for the petitioner submits that his client was inducted into the premises by the original owner, Mohd. Abdul Raheem, and unless the tenancy was attorned to any subsequent transferee, it cannot be said that there existed any relationship of tenant and landlord, between the petitioner and the respondent. He further submits that the evidence on record discloses that the rent, as directed in R.C. No. 458 of 1996, was deposited, and that there was no wilful default on the part of his client. He assails the finding, as regard the bona fide requirement.

4. Learned Counsel for the respondent, on the other hand, submits that once the original owner had executed a gift deed and had stated in evidence in earlier proceedings, to which the petitioner and the respondent are parties, about the said gift, it was not at all open to the petitioner, to still dispute the relationship. He contends that though there was a direction by the Court of III Additional Rent Controller in RC.No.45 8 of 1996 filed by the petitioner himself, for deposit of the rents from November 1995 till 29-6-1999, the petitioner did not care to comply with it, and the plea of wilful default stood established beyond any pale of doubt. He further submits that the petitioner failed to substantiate his allegation that the respondent is in possession of certain other premises also.

5. On the basis of the pleadings of the parties, the learned Rent Controller framed 4 points, viz;

(1) Whether there is jural relationship between the parties as landlord and tenant ?

(2) Whether the respondent committed wilful default ?

(3) Whether the petitioner requires the petition premises bonafidely ?

(4) Whether there is a denial of title by the respondent and the same is bona fide ?

All the points were answered in favour of the respondent, and the order passed by the learned Rent Controller was affirmed in the appeal.

6. Points 1 to 4 can be said to be different facets of the same controversy. It is true that the original owner of the premises was one Mr. Mohd. Abdul Raheem. He is none other than the maternal grand father of the respondent. Through a document dated 29-8-1988, marked as Ex.P-1, he gifted the property to the respondent herein. On the strength of this transfer of title, the respondent filed R.C. No. 199 of 1995, before the III Additional Rent Controller, against one Nikhat, for eviction. The R.C. was allowed, and at the stage of execution, the petitioner pleaded that he is the actual tenant. While the execution proceedings in R.C. No. 199 of 1995 were pending, the petitioner filed R.C. No. 458 of 1996 against the respondent and the original landlord, Mohd. Abdul Raheem, seeking permission to deposit the rents in

the Court. In the said proceedings, Mohd. Abdul Raheem stated in his evidence that he gifted the property in favour of the respondent. Ultimately, the petitioner herein was recognized as the tenant, in respect of the premises, and R.C. No. 458 of 1996 was disposed of, directing that the petitioner shall deposit the rents from November 1995 till the date of order.

7. From the above, it is clear that the petitioner recognized his relationship with the respondent, as tenant and landlord, and the little doubt that existed as to the gift of the property to the respondent stood clarified, with the deposition of the original landlord. The outcome of the R.C. No. 458 of 1996 and the claim petition filed by the petitioner in R.C. No. 195 of 1995 is that the petitioner was treated as the tenant and the respondent was recognized as landlord. The said orders became final. Therefore, it did not lie in the mouth of the petitioner, either to dispute the existence of relationship of landlord and tenant, or to deny the title of the respondent over the schedule property. Therefore, the findings on these two points do not call for any interference.

8. One of the grounds pleaded by the respondent was that the petitioner committed default in payment of rents. It is a matter of record that the petitioner himself filed R.C. No. 458 of 1996, seeking permission of the learned Rent Controller to deposit the rent into Court. Permission was accorded and time was granted him to deposit the rents from November 1995 till 29-6-1999. A further direction was issued for deposit of the rents for the subsequent months, on or before 6th of the concerned month. This order became final. The respondent specifically pleaded that the petitioner did not make any deposits, at all. Though the petitioner made an attempt to mislead the Court by pleading that he deposited the rents and filed a bunch of 41 duplicate challans, it ultimately emerged that not a single rupee was deposited to the credit of the said R.C. No. 458 of 1996. That only shows the extent to which the petitioner was prepared to go in his effort to continue in the premises, at any cost.

9. On the other aspect also, the Courts below held that the petitioner failed to prove that the respondent owns other premises. The learned Rent Controller as well as the learned Additional Chief Judge have discussed the matter extensively, on the settled principles of law. This Court is not inclined to interfere with the concurrent findings of fact, recorded by the Courts below.

10. The C.R.P. is accordingly dismissed. The petitioner is, however, granted time till 31-12-2006, for vacating the premises, subject to his payment of the arrears of rent, on or before 30-6-2006, and payment of rents on or before 6th of the subsequent month. He shall also file an undertaking before the I Additional Rent Controller, Hyderabad by 30-6-2006, to the effect that he shall vacate the premises and put the respondent in the vacant possession, by 31-12-2006. In default, it shall be open to the respondent, to seek execution, before 31-12-2006.

11. There shall be no order as to costs.