

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 14th day of August, 1998

Before:

THEHON'BLE MR. JUSTICE R.V. RAVEENDRAN

H.R.R.P. No. 1015 of 1998

T.V. Ushamani,
w/o late B. Krishnamurthy,
residing at No.66,
Office Road, 4th Cross,
2nd Stage, Indiranagar,
Bangalore - 560 038

.. Petitioners

(By Sri M.V. Seshachala, Advocate)

-Vs-

C. Prabhakar,
s/o Chikkegowda,
r/a Chamelikunj,
No.4, Seshadri Road,
Bangalore-9

.. Respondents

(By Sri K. Shivaji Rao, Advocate)

HRRP filed against the order dated 4-4-1998
passed in HRC No.912/1987 on the file of the X Addl.
Judge, Court of Small Causes, Bangalore, allowing the
petition filed under Section 21(1) (h) of KRC Act.

This HRRP coming on for admission this day,
the Court made the following:-

O R D E R

This revision petition under Section 50(1) of the Karnataka Rent Control Act, 1961 (for short, the Act) is filed by the LR of the deceased respondent in HRC No.912 of 1987 on the file of Court of Small Causes, Bangalore.

2. The respondent-landlord filed an eviction petition against the petitioner's husband under Section 21(1) (h) alleging that he and his brother are the owners of the petition schedule premises; that the petitioner's husband was their tenant; that the landlord and his brother were staying with their grandfather; that as the relationship between them and their grandfather became strained and as he wanted to get married, he wanted to live separately; and therefore he required the petition schedule premises for his own use and for the use of his brother. He further stated that in view of the strained relationship with his grandfather, he is residing now in a rented premises. It may be mentioned that during the pendency of the petition, the respondent-landlord also got married.

3. During the pendency of the eviction petition, the respondent in the eviction petition died and the petitioner herein was brought on record as his legal representative. The petitioner herein disputed the

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jural relationship of landlord and tenant between the respondent and the petitioner herein. According to petitioner, the respondent's father one Chikkegowda is the owner of the property and he had entered into an agreement of sale with petitioner's husband in respect of the petition schedule premises; that he did not however execute a sale deed and thereby committed breach; that therefore her husband had filed a suit for specific performance in OS No.8449 of 1980; and the said suit was dismissed and the appeal filed by the RFA No.92/1993 ^{is} ~~was~~ pending before this Court; therefore the eviction petition is not maintainable. The petitioner also denied the need put forth by the respondent.

4. After considering the evidence, the trial Court passed an order of eviction on 4-4-1998 under proviso (h) to Section 21(1) of the Act, accepting the claim of the respondent-landlord that he required the petition schedule premises for his own use and greater hardship would be caused to the respondent-landlord if an order of eviction is not passed. The Court also held that partial eviction is not possible. It may be mentioned that the trial Court had earlier held that the relationship of landlord and tenant between the petitioner and respondent in the eviction petition

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had been established, while allowing I.A-2 by order dated 27-1-1990; and that finding was confirmed by this court by order dated 27-9-1996 in HRRP No.987/1990.

5. The petitioner has not been able to point out any error in the said findings in the order of eviction.

6. At ~~this~~^{the} stage, learned counsel for the petitioner-tenant submitted that if one year's time is granted to the tenant to vacate the premises, she will not press this revision petition, without prejudice to her right to pursue RFA 92 of 1993 filed by her against the dismissal of OS No. 8449 of 1980.

7. Learned counsel for the respondent-landlord is agreeable for grant of such time, subject to the petitioner-tenant filing the usual affidavit.

8. In view of above, this petition is dismissed as not pressed, granting one year time to the petitioner-tenant to vacate the petition schedule premises, subject to the tenant filing an affidavit within one month from this date, undertaking to

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vacate the petition schedule premises on or before the expiry date of one year from this day and further undertaking to pay the rents regularly and not to induct anyone else into the petition schedule premises. Neither the undertaking nor this decision, will not affect the rights of petitioner, if any relief is granted to her in RFANO.92 of 1993. Petr will not be entitled to the time granted if there is a breach of the undertaking.

Sd/-
JUDGE

pjk/-ujk