

Ramesh

Vs

A. Balreddy

Civil Appeal No. 1055 of 1980

(L. M. Sharma, V. Ramaswami II JJ)

14.05.1990

JUDGMENT

SHARMA, J. -

1. This appeal by special leave at the instance of the tenant of the premises in question is directed against the decree for his eviction on the ground that the respondent-landlord requires the premises for opening a clinic by his doctor daughter.
2. Admittedly the respondent's daughter passed her MBBS examination and was studying the MS course when the present application for eviction was filed before the Rent Controller, Hyderabad. Her husband also is a doctor and is running a clinic at a distance of 6 miles. The respondent's daughter is assisting her husband in his clinic but it is claimed by the respondent-landlord that she is desirous of starting a separate clinic and for that purpose the premises in question, let out to the appellant, is suitable. The appellant denied the alleged necessity of the landlord and inter alia pleaded that the sole purpose of the proceeding was to extract higher rent. The Additional Rent Controller, Hyderabad, after examining the evidence led by the parties, rejected the landlord's case and dismissed the eviction petition. The Rent Controller has stated the manner in which the rent of the premises was raised from the time to time from Rs. 30 per month to Rs. 200 per month when the petition was filed. The landlord was further asking the appellant to agree to pay the double the said amount which he refused, and this led to the filing of the case. The court also pointed out that the landlord was in possession of the several other premises and was in the habit of starting eviction proceedings to the pressurise the tenants to agree to raise the rent and if they agreed the eviction cases were withdrawn. The landlord filed an appeal against the judgment of the Rent Controller which was allowed by the Chief Judge, City Small Causes Court at Hyderabad. The learned Judge accepted the case of the landlord that his daughter wanted to start a separate clinic. It was also observed that the necessity of a married daughter also should be taken into account for deciding the requirement of the landlord. The tenant's revision application under the Rent Act was dismissed by the High Court by a very short order. In this situation he has come to this Court.
3. The learned counsel for the appellant has contended that after her marriage, the daughter went out of the family of the respondent-landlord and her requirement for running a clinic cannot be the basis of the eviction decree. We have examined the circumstances in the case closely and in our opinion even without deciding the question as to the whether the requirement of a married daughter can be a valid ground for the eviction of a tenant under the present Rent Act, it is a fit case in which, on consideration on merits, the appeal should be allowed and the decision of the Rent Controller be restored. All the relevant evidence and the circumstances relied upon by the Rent Controller have not been considered by the Chief Judge, City Small Causes Court, and the High Court has, in view

of the limited scope of the civil revision before it, dismissed the same without adverting to the evidence. The evidence and the circumstances are telling in this case. It has been fully established by the appellant that the respondent has been forcing him to raise the rate of the rent from time to time and was making a further demand, which was not acceded to by the appellant. The Rent Controller was also right in relying upon the manner in which R.C. No. 535 of 1977 had been filed by the respondent-landlord against another tenant Babu which was later withdrawn when Babu agreed to pay higher rent. It is also relevant to note that the respondent's daughter and her husband are on good terms and she was assisting him in his clinic when the case was filed. Both being doctors, it is expected that the husband would be able to take care of the necessities of the wife and there is nothing to suggest that the respondents daughter had to depend on her father in any manner. In this situation the requirement pleaded by the respondent in his application is a fanciful wish and cannot be accepted as a good ground for a decree for eviction. We, therefore, set aside the decisions of the City Small Causes Courts and the High Court and restore the judgment of the Additional Rent Controller, Hyderabad. The appeal is accordingly allowed with costs throughout.

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