

[2022 LiveLaw \(SC\) 957](#)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
S. ABDUL NAZEER; J., V. RAMASUBRAMANIAN; J.

NOVEMBER 01, 2022

CIVIL APPEAL No(s).8028 OF 2022 (Arising out of SLP (C) No(s). 18654/2018)

MOHAMMED SADIQ versus DEEPAK MANGLANI

Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960; Section 10 - Bonafide requirement - The landlord was carrying on business and that he had children for whom he wanted to set-up a business - Rent Control Appellate Authority passed Eviction Order -Andhra Pradesh HC, while allowing Revision Petition observed that the eldest son of the Landlord was still pursuing studies and therefore the requirement of the land lord was not bona fide - Allowing the appeal, the SC observed: There is no bar for someone who is pursuing higher studies, to start a business. The High Court, for a moment did not realize that it was dealing with a revision, where its jurisdiction was limited.

(Arising out of impugned final judgment and order dated 01-03-2018 in CRP No. 454/2018 passed by the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh)

For Petitioner(s) Ms. Vibha Datta Makhija, Sr. Adv. Mr. Santanu Ghosh, Adv. Mr. Praveen Gaur, Adv. Ms. Baani Khanna, Adv. Mr. karan Mamgain, adv. Ms. Sampriti Bakshi, Adv. Mr. Satya Prakash, Adv. Mr. Nikhil Jain, AOR Mr. Kaushik Dey, Adv.

For Respondent(s) Mr. Rajiv Raheja, AOR Mr. Mohit A., Adv.

ORDER

Leave granted.

2. Aggrieved by an order passed by the High Court of Judicature at Hyderabad for the State of Telangana and Andhra Pradesh allowing the revision petition filed by the tenant under Section 22 of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (in short “the Act”) and the setting aside an order of eviction passed by the Rent Control Appellate Authority, the landlord is before us in the above Appeal.

3. We have heard learned counsel on both sides.

4. The appellant-landlord sought eviction of the respondent-tenant on two grounds namely: (1) wilful default in payment of rent; (2) *bona fide* requirement of the premises for the own use of the landlord.

5. The Rent Controller dismissed the eviction petition, but the Rent Control Appellate Authority allowed the appeal filed by the landlord and ordered eviction. In a revision filed by the tenant under Section 22 of the Act, the High Court has set aside the order of eviction passed by the Appellate Authority, forcing the landlord to come up with the above Appeal.

6. Insofar as the first ground on which the eviction was sought is concerned, there was a dispute as to what the agreed monthly rent was. While the appellant-landlord claimed that the agreed monthly rent was Rs.3,200/-, the respondent-tenant claimed that the agreed rent was Rs.1,600/- per month.

7. The appellant who purchased the property from the previous owner in September 2013, relied upon a letter of Attornment of Tenancy issued by the erstwhile landlord, indicating the monthly rent to be Rs.3,200/. Unfortunately, the High Court held that this letter of Attornment of Tenancy was not sufficient to prove the monthly rent to be

Rs.3,200/-. The High Court felt that the previous landowner ought to have been examined by the appellant in this regard.

8. But we do not agree. The proceedings before the Rent Controller are summary in nature. The purchase of the building by the appellant in September 2013 is not disputed. Therefore, the appellant was entitled to rely upon the letter of Attornment of Tenancy. In fact the letter of Attornment of Tenancy is addressed to the respondent-tenant with a copy marked to the appellant. Therefore, the High Court was wrong in reversing the finding given by the Appellate Authority in this regard.

9. Insofar as the second ground is concerned, the Appellate Authority found that the appellant was carrying on business and that he had children for whom he wanted to set-up a business. On the ground that the eldest son of the appellant was still pursuing studies, the High Court held that the requirement of the appellant was not *bona fide*.

10. Again we do not agree with the aforesaid finding. There is no bar for someone who is pursuing higher studies, to start a business. The High Court, for a moment did not realize that it was dealing with a revision, where its jurisdiction was limited.

11. Therefore, we are of the view that the order of the High Court is unsustainable and liable to be set aside. Accordingly, the above appeal is allowed, the impugned order of the High Court is set aside and the order of the learned Rent Control Appellate Authority is restored. The tenant is given six months' time from today to vacate the property and handover the vacant possession.

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