

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 12TH DAY OF JANUARY 1998

BEFORE:

THE HON'BLE MR. JUSTICE H. RANGAVITTALACHAR

H.R.R.P. NUMBER 1210/1997

Between:

Mohammed Yaqoob Saheb
S/o Mohammed Osman
Major,
No.472/A, New No.24,
8th Main, Viveknagar,
Bangalore-47.

... Petitioner

(By Sri S.G.Prabhakar)

And:

Nazir Ahmed,
S/o Adam Shariff Saheb,
Major,
268, PWD Quarters,
Wilson Garden,
Bangalore-2.

... Respondent

(By Sri C.M.Desai)

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This H.R.R.P. filed u/s 50(1) of the KRC Act, against the order dated 31.7.97 passed in HRC No.302/89 on the file of the VII Addl. Judge, Court of Small Causes, Bangalore.

This H.R.R.P. is coming on for admission this day, the Court made the following:

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ORDER....

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O R D E R

This is a petition under Sect. 50 of the Karnataka Rent Control Act against the orders of the 7th Addl. Judge of Small Causes passed in HRC No. 302/89 holding that this is a case where by ordering partial eviction, requirements of the landlord will not be met.

2. Respondent/landlord had filed an eviction petition seeking eviction of the residential house on the ground that the premises now in occupation is not sufficient to meet his family's requirements. Therefore he required the schedule house for his own use and occupation. The said petition in the first instance was dismissed by the trial Court. Aggrieved by the same, landlord had preferred a Revision petition in this Court under Sec. 50 of the KRC Act in HRRP No. 279/93. This Court in the said revision petition held that the petitioner's requirements is 'reasonable and bonafide' but however remanded the matter to the trial Court to hold an enquiry to find out whether by ordering the tenant to partially vacate, the need of the landlord could be met. The trial Court in pursuance of the order of the remand, held a detailed enquiry where both the parties were permitted to lead fresh evidence. The trial

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Court thereafter has come to the conclusion that having regard to the large number of family^{members} and having regard to the area of the schedule premises which measures 15'x45' having only one Hall, one Varendah, One Bathroom and a small passage, this is not a case where by ordering the tenant to vacate partially, the requirements of the landlord can be met and on that basis the trial Court has allowed the eviction petition.

3. I do not find any infirmity in the order of the trial Court calling for interference.

4. Petition is liable to be dismissed and is accordingly dismissed.

5. At this stage, learned counsel appearing for the tenant submitted that some reasonable time may be granted to the tenant to vacate the premises.

6. Having regard to the fact that one of the members of the landlord's family is suffering from Cancer and having regard to the fact that he had filed the revision petition in the year 1990, 6 months time is granted to the tenant/subject to the condition that the tenant:

- (a) shall file an affidavit undertaking to voluntarily vacate the premises without driving the landlord to the necessity of filing the execution petition within 4 weeks from today after having served a copy thereof on the landlord's counsel.

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(b) shall pay the rents regularly as and when it falls due without any default.

(c) shall not sublet or sublease the premises.

Petition dismissed.

Sd/- JUDGE

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