

Shahid Vs. State of Kerala

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Court : Kerala

Decided On : Nov-28-2013

Judge : Honourable Mr.Justice P.Bhavadasan

Appellant : Shahid

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALAATERNAKULAM PRESENT: THE
HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR & THE
HONOURABLE MR. JUSTICE B.KEMAL PASHA THURSDAY,THE28H DAYOF
NOVEMBER20137TH AGRAHAYANA, 1935 RCRcv..No. 275 of 2011 ()
----- AGAINST THE

JUDGMENT

IN RCA1162004 of ADDL.DISTRICT & SESSIONS COURT,THRISSUR
DATED15-03-2011 AGAINST THE

ORDER

IN RCP512001 of ADDL.M.C.,IRINJALAKUDA DATED27-02-2003 REVISION
PETITIONER/RESPONDENT/PETITIONER:

VILASINI,
W/O.SANKARANARAYANAN, KUMBALAPARAMBIL HOUSE, PADINJARA
CHALAKUDY DESOM VILLAGE, MUKUNDAPURAM TALUK. BY

ADVS.SRI.G.SREEKUMAR (CHELUR) SRI.K.RAVI (PARIYARATH)
APPELLANTS2TO4ADDL.COUNTER PETITIONER PETITIONERS IMPLEADED
IN APPEAL:

1. SUBRAN, S/O.KUNJITTARAMAN, KUNNAMPURATH HOUSE, MURINGOOR
DESOM MURINGOOR VADAKUMURI VILLAGE, MUKUNDAPURAM TALUK.

2. SANTHOSH, S/O.KUNJITTARAMAN, KUNNAMPURATH HOUSE,
MURINGOOR DESOM MURINGOOR VADAKUMURI VILLAGE,
MUKUNDAPURAM TALUK.

3. SAJITHA, D/O.KUNJITTARAMAN, KUNNAMPURATH HOUSE, MURINGOOR
DESOM MURINGOOR VADAKUMURI VILLAGE, MUKUNDAPURAM TALUK. R1-
3 BY ADV. SRI.K.RAMACHANDRAN R1-3 BY ADV. SMT.S.JAYASREE THIS
RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON2811-2013,
THE COURT ON THE SAME DAYPASSED THE FOLLOWING: AV
T.R.RAMACHANDRAN NAIR & B.KEMAL PASHA, JJ.

----- R.C.R.No.275 of 2011 -----
Dated this the 28th day of November, 2013

ORDER

T.R.Ramachandran Nair, J.

The judgment rendered by the Rent Control Appellate Authority is under challenge
in this revision petition, at the instance of the land lord.

2. We heard, learned counsel for the petitioner Sri.G.Sreekumar and learned
counsel for the respondents Sri.K.Ramachandran.

3. A reading of the judgment rendered by the Appellate Authority will show that
after being satisfied that the tenant be given an opportunity to contest the matter,
the order passed by the Rent Control Court was set aside and the matter was
remanded. One of the pleas raised by the original tenant in the RCP is that the
document of title produced as Ext.A1 in RCP is sham. The Appellate Authority,

after perusing the counter R.C.R.No.275 of 2011 2 statement of the tenant, found that the plea has been raised even initially and therefore there is sufficient explanation for the non appearance before the Rent Control Court for adducing evidence. It was held that a fresh opportunity should be granted.

4. Learned counsel for the petitioner Sri.Sreekumar submitted by relying upon the judgment of the Apex Court in *Suhrid Singh @ Sardool Singh v. Randhir Singh and Others* (C.A.No.2811, 2812, 2813 of 2010) that the tenant cannot deny the title without seeking for cancellation of the document or seeking a declaration.

5. Learned counsel for the respondent Sri.K.Ramachandran submitted that the Appellate Authority has not gone into the contentious issues, but has allowed an opportunity to the tenant, to adduce evidence, after accepting the plea by the tenant that she was a maid servant working at a distant place at the time when the case was listed for trial and there is R.C.R.No.275 of 2011 3 nothing wrong with the said order.

6. After hearing learned counsel on both sides, we are of the view that the judgment rendered by the Appellate Authority granting an opportunity to the tenant cannot be said to be irregular, illegal or improper. Therefore we dismiss the revision petition.

7. Learned counsel for the petitioner prayed that a direction should be issued to the Rent Control Court to expedite the trial and a time limit also be fixed for disposing of the matter. It is also submitted that this is the second round of litigation. Being an RCP of 2001, we direct the Rent Control Court to dispose of the matter finally within a period of three months from the date of receipt of a copy of this order. Sd/- T.R.RAMACHANDRAN NAIR, JUDGE Sd/- B.KEMAL PASHA, JUDGE AV /True Copy/ P.A to Judge

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