

Sulemankhan Vs. Mallappa

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Court : Karnataka

Decided On : Jul-02-1985

Reported in : ILR1986KAR935

Judge : Chandrakantaraj Urs, J.

Acts : Karnataka Rent Control Act, 1961 - Sections 24(1)

Appeal No. : C.R.P. No. 1431 of 1985

Appellant : Sulemankhan

Respondent : Mallappa

Advocate for Pet/Ap. : Jayakumar S. Patil, Adv.

Disposition : Petition rejected

Judgement :

ORDER

Chandrakantaraj Urs, J.

1. The only question which falls for determination in this revision under Section 115 of C.P.C is whether the tenant can be permitted to exercise his right conferred on him under Sub-section (1) of Section 24 of the Karnataka Rent Control Act after the decree has been passed and confirmed. In this case premises was sought on

more than one ground. The Court of first instance decreed it on the only ground which it upheld and that was under Clause (i) of the proviso to Sub-section 1 of Section 21 of the Karnataka Rent Control Act, that is, the premises is required bona fide for effecting repairs to the premises, which cannot otherwise be repaired.

2. In regard to one another ground, namely, payment of arrears of rent, the Court of first instance did not uphold the case of the landlord. Tenant was at that time asked to exercise the option in regard to his right of re-allotment after the repairs are carried out under Sub-section (1) of Section 24 of the Act. He declined to do so on the ground that he is going to prefer revision proceedings before the District Judge. He preferred revision petition before the District Judge under Sub-section (2) of Section 50 of the Act. That revision came to be dismissed. However, the District Judge appears to have allowed the eviction even on the ground of arrears of rent, though the landlord had not separately preferred a revision petition against that part of the finding recorded by the Munsiff. In any event, the matter came before this Court and this Court rejected the revision petition of the tenant. Thereafter, the tenant moved under Section 24 (1) the Court of the 1st instance, namely Munsiff at Sagar to give him the right to exercise the option, that had been refused. On revision to District Judge, Shimoga, he also rejected the claim of the tenant.

3. Having regard to the language employed in Subsection 1, the option is to be exercised only at one point of time, that is, when a decree is about to be passed by the Court, the Court defined as such under the Act alone could pass a decree in the first instance. Such option cannot be exercised either at the stage of first revision before the District Judge or at the stage of second revision in this Court. If this legislative intent is kept in mind, then question of moving the 'Court' subsequent to the culmination of all proceedings possible under the Act does not arise. Tenants in such position should be cautious to exercise the option without prejudice to the right to prosecute the remedy provided by law for such exercise of option. That reservation is not prohibited by the statute.

4. This Court cannot give any relief in this Petition. Petition rejected for the reasons stated above.

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