

Narayan Vs. Mahesh

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Court : Karnataka

Decided On : Jun-22-1998

Reported in : ILR1998KAR3589

Judge : H. Rangavittalachar, J.

Acts : Karnataka Rent Control Act, 1961 - Sections 21(1), (2) and 29

Appeal No. : HRRP No. 956/1994

Appellant : Narayan

Respondent : Mahesh

Advocate for Pet/Ap. : Krishna S. Dixit, Adv.

Disposition : Petition allowed

Judgement :

ORDER

H. Rangavittalachar, J.

1.This is a landlord's petition under Section 115 of CPC.

2. Petitioner/landlord herein filed an eviction petition against the respondent/tenant under Section 21(1)(a) of the Karnataka Rent Control Act (For short THE ACT) on the file of the Additional Munsiff, Bagalkot on the ground that the landlord has

issued a notice contemplated under Section 21(1)(a) dated 24th July 1987 calling upon the tenant to pay the arrears of rent for the period February '87 to July '87, monthly rents being calculated @ Rs. 300/- which he had not paid. The tenant refused to accept the said notice. Consequently the landlord filed an eviction petition. During the enquiry of the said eviction petition, the landlord also filed an application under Section 29(1) of the act. The said application came to be allowed. The learned Munsiff determined the arrears of rent that the tenant was liable to pay to the landlord as on the date of his order i.e., on 12.7.1990 @ Rs. 12,000/- and directed the tenant to pay the same within one month from that day. The tenant complied with the said order. The learned Munsiff however held relying on Section 21(2)(i) that the tenant is absolved from the liability of being evicted under Section 21(1)(a) of the act, in view of the same is consequently dismissed the eviction petition; Aggrieved by the said order, landlord herein preferred a Rent Revision Petition before the learned District Judge, Bijapur. The learned District Judge agreed with the reasonings of the learned Munsiff and by his order dated 15.2.1994 dismissed the eviction petition. These two orders are challenged in this petition.

3. Sri Krishna S. Dixit learned counsel appearing for the petitioner/ landlord contended that both the Courts below have completely mis understood the scope of Section 21(2) of the act. According to him the tenant in order to save himself from being evicted in the petition filed under Section 21(1)(a), has to not merely comply with the provisions of Section 29 but to also show 'Sufficient Cause' for not paying the rents within 2 months when he received or deemed to have received the notice issued to him under Section 21(1)(a). This has not been done in this case and both the Courts below have not applied their minds to this aspect of the matter. In support of the said contention, the learned Counsel relied on a Division Bench Judgment of this Court in SHIVA v. DEVANNA.

4. In my opinion, the said submission has substance. It has been held in the said decision that Clauses i, ii, iii, of Sub-section (2) of Section 21 of the Act have to be read in conjunction, if so read, the tenant in order to have the benefit of the said section has to comply with all the clauses. Both the Courts in this case have proceeded to absolve the tenant from the liability of being evicted only on the

ground that the tenant has complied with the provisions of Section 29 of the act without giving a further finding whether:

'The tenant had sufficient cause for default to pay or tender the rents within the period referred to in Clause (a)'.

5. Therefore in my opinion, the order of the learned Munsiff as well as the order of the learned District Judge are liable to be set-aside and is accordingly set aside. Since as already held by me, both the Courts have not applied their minds to this aspect of the matter viz., has the tenant shown sufficient cause for non-payment of demanded rents the matter has to go back to the file of the learned Munsiff to enquire and decide the question viz:

'Whether the tenant had sufficient cause for non payment of the rents within 2 months from the date he received or deemed to have received the notice contemplated under Section 21 (1)(a) and in the light of the decision of the Division Bench Judgment of this Court referred to above.'

6. Having regard to the long pendency of the matter learned Munsiff is directed to dispose-off the same within 6 months from the date of receipt of this order.

Petition allowed.

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