

M. Naresh Kumar Vs. B. Nagalaxmi

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Court : Supreme Court of India

Decided On : Apr-23-1998

Reported in : AIR1999SC547; JT1998(5)SC630; (1998)5SCC331

Judge : S.P. Bharucha and; V.N. Khare, JJ.

Acts : Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 - Sections 22

Appeal No. : Civil Appeal No. 14869 of 1996

Appellant : M. Naresh Kumar

Respondent : B. Nagalaxmi

Judgement :

ORDER

1. This appeal by special leave assails the correctness of the judgment of a learned Single Judge of the High Court of Andhra Pradesh on a civil revision petition under Section 22 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960.

2. The respondent-landlady had filed a petition for eviction against the appellant-tenant on the ground, inter alia, that he had committed wilful default in payment of rent for the months of September, October and November 1983. The Rent Controller as well as the appellate authority held against the landlady, finding that

for seven or eight years the tenant had been sending rent once every two or three months and the landlady had not protested; thus, a practice had developed between the parties to pay and receive the rent at irregular intervals. There was, therefore, no wilful default in payment of rent for September and October 1983. The question of payment of rent for November 1983 did not arise because it fell due only after the eviction petition was filed.

3. The High Court took into account a letter dated 27-10-1980 sent by the landlady's advocates in reply to a notice addressed by the tenant. Therein the landlady's advocates stated: 'Please direct your client to send the rents regularly every month. If your client commits any default in future, our client will not condone the same'. The High Court found that, in spite of this notice, the tenant had 'repeated the payment of rent on irregular intervals'. This amounted, in its view, to wilful default as he had been put on notice that in case he repeated the practice, he would be liable to face the consequences.

4. It would appear that the High Court did not take account of the fact that the letter written by the advocates for the landlady was dated 27-10-1980 and that even thereafter, until the eviction petition was filed on 2-12-1983, rent had been paid and accepted at the same irregular intervals. In other words, earlier practice had continued. The High Court ought not to have interfered, in the circumstances, with the findings of the authorities below. The High Court also does not appear to have taken note of the fact found that the default, if any, prior to the filing of the eviction petition was only of two months and not three.

5. The appeal is allowed. The judgment and order under appeal is set aside and the revision petition is dismissed. No order as to costs.