

Badami Devi (Smt) and anr. Vs. Ambuja Raghavan (Smt)

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Court : Supreme Court of India

Decided On : Oct-09-1998

Reported in : (2001)9SCC245

Judge : K. Venkataswami and; G.B. Pattanaik, JJ.

Acts : Karnataka Rent Control Act, 1961 - Section 21(1)(h); [Code Of Civil Procedure \(CPC\), 1908](#) - Order 41, Rule 27

Appeal No. : Civil Appeal No. 5085 of 1998 Arising out of SLP (C) No. 8662 of 1998

Appellant : Badami Devi (Smt) and anr.

Respondent : Ambuja Raghavan (Smt)

Judgement :

K. Venkataswami and; G.B. Pattanaik, JJ.

1. Leave granted.

2. Heard elaborately learned counsel on both the sides.

3. The respondent filed an application under Section 21(1)(h) of the Karnataka Rent Control Act seeking eviction of the appellants on the ground of bona fide use and occupation of the suit house. The learned Small Causes Judge, after hearing the case, allowed the eviction petition. Against that order of eviction, only revision

under Section 50 is provided in the Act. Accordingly, the appellants preferred a revision petition to the Karnataka High Court. Pending revision, the appellants preferred several separate applications under Order 41 Rule 27 CPC, seeking permission to produce additional evidence and to bring to the notice of the High Court certain vital subsequent events. Unfortunately, the High Court while dismissing the revision, has dismissed the applications under Order 41 Rule 27 CPC, by stating that no prima facie material has been filed to appreciate the applications without discussing the materials placed before it. On a perusal of the materials placed before the High Court, we are of the view that the High Court should have allowed the petitions to produce additional evidence and to bring on record the subsequent events. The failure to do so, in our view, on the facts of this case, vitiates the order under appeal. Accordingly, we set aside the order dated 16-4-1998 of the High Court. We are also of the view that the additional evidence now produced and the subsequent events sought to be brought on record must be considered by the learned Small Causes Judge. Accordingly, we set aside the judgment dated 22-7-1994 in HRC No. 100 of 1990 on the file of XIIIth Additional Small Causes Judge. Consequently, we restore HRC No. 100 of 1990 on the file of XIIIth Additional Small Causes Judge. We permit the appellants tenant to produce additional evidence and also to bring on record subsequent events. The learned Small Causes Judge will also give liberty to the landlord to file rebuttal evidence, if any, to the new material produced by the appellants herein. As the matter is an old one, we direct the learned XIIIth Additional Small Causes Judge to expeditiously dispose of HRC No. 100 of 1990, preferably within six months from today.

4. The appeal is allowed accordingly with no order as to costs.

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