

N.S. Subbanarasimha Sastry (Dead) by L.Rs. Vs. N. Kamalamma (Dead) Through L.R.

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Court : Supreme Court of India

Decided On : Mar-31-2009

Judge : B.N. Agrawal and; G.S. Singhvi, JJ.

Acts : Karnataka Rent Control Act - Sections 21 and 50

Appeal No. : Civil Appeal Nos. 4720-4721 of 2002

Appellant : N.S. Subbanarasimha Sastry (Dead) by L.Rs.

Respondent : N. Kamalamma (Dead) Through L.R.

Disposition : Appeal allowed

Judgement :

ORDER

1. Heard learned Counsel for the parties.

2. The petition filed by Smt. N. Kamalamma (predecessor in interest of the respondent) under Section 21(a)(b) (f) and (j) of the Karnataka Rent Control Act (for short, 'the Act') for eviction of N.S. Subbanarasimha Sastry who is now represented by L.Rs. was dismissed by the Principal Munsiff, Madhugiri, by recording a finding that the petitioner has failed to prove landlord-tenant relationship between her and the non-petitioner (appellant herein). The revision filed by the respondent under Section 50 of the Act was dismissed by First Additional District Judge, Tumkur and the finding recorded by the Principal Munsiff on the issue of landlord-tenant relationship between the parties was confirmed. However, the High Court allowed the second revision preferred by the respondent and ordered eviction of the appellants herein. The review petition filed by the appellants was dismissed by the High Court. Hence, these appeals by special leave.

3. A reading of the impugned order along with those passed by the Principal Munsiff and First Additional District Judge shows that while the Trial Court and First Revisional Court, after an in-depth analysis of oral and documentary evidence produced by the parties recorded concurrent finding that the original petitioner has failed to prove landlord-tenant relationship between her and the non-petitioner, the High Court reversed the same without even recording a finding that the conclusions reached by the courts below are perverted. This being the position, the order in challenge is liable to be set aside with a direction to the High Court to decide the revision of the respondent afresh.

4. Accordingly, the appeals are allowed, impugned orders are set aside and the matter is remitted to the High Court for fresh disposal of the revision petition filed by the respondent in accordance with law after giving opportunity of hearing to the parties.

5. No costs.