

Ratan Lal Shinghal

Vs

Smt. Murti Devi

Special Leave Petition (Civil) No. 4240 of 1979

(V.R. Krishna Iyer, P.N. Shinghal JJ)

21.08.1979

JUDGMENT

KRISHNA IYER, J. –

1. Shri G. L. Sanghi, counsel for the petitioner, has raised a neat point of law, as he described it, that Act 13 of 1972, by which new buildings constructed during the period of 10 years would be given exemption from the operation of the Act, does not apply to buildings constructed prior to the amendment. His contention is that ordinarily a statute like this is prospective in operation unless there is clear legislative intent to the contrary. We are inclined to agree with him that this legislation is not retrospective and would have gone further to give him relief on that basis. But Shri Rana has pointed out that this specific question of law has not been raised nor considered by the courts below and that the indulgence of this Court for raising the point of law should not be extended to the petitioner. The further reason given is that an undertaking had been given to the High Court to surrender vacant possession and a period of six months was secured from that the court for that purpose. That period was, however, used for coming to this Court and for declining to give possession. In a sense this is perilously near a breach of the word given to the court and for this reason Shri Rana rightly submits indulgence should not be given to the party to raise a new point.

2. The point of law is of frequent occurrence and may affect judicially a number of tenants in these days of accommodation scarcity. That is why we have indicated clearly that the contention is sound that Act 13 of 1972 is prospective and applies only to buildings brought into being de novo after the Act came into force. Even so the special circumstances we have indicated, the petitioner has forfeited his right to persuade us to permit him to raise a new question.

3. However, by consent of parties we direct that the petitioner will be allowed one year to give vacant possession from today. He will put an undertaking in writing to that effect within two weeks from today. If he fails to do so, this special leave petition shall stand dismissed. But if he does give an undertaking he will be allowed time to give vacant possession by August 21, 1980. In case the petitioner commits breach of his undertaking he will be liable in contempt. An amount equal to the rent for use and occupation will be paid by the petitioner to the respondent throughout this period by or before the 10th each succeeding month.

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