

Krishnaraj Jamnadas Modi

Vs

Colaba Land Cooperative Society Ltd. and Another

Civil Appeal No. 1050(N) of 1979

(V. R. Krishna Iyer, R. S. Pathak, O. Chinnappa Reddy JJ)

07.08.1980

JUDGMENT

V. R. KRISHNA IYER, J. –

1. In this appeal, by special leave, the subject-matter turns on the construction of Section 13(i)(g) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947. The appellant is the tenant and the respondents are (i) a Building Cooperative Society and (ii) on of the allottee-members to whom a flat has been allotted by lots. The ground for eviction put forward by the landlords Society was the requirement of the beneficiary respondent 2. Although the trial Court dismissed the eviction suit, the Appellate Bench of the same court allowed eviction. The decree for eviction was affirmed by the High Court granted 2 1/2 years to the appellant-tenant to vacate the premises. This period expires by the end of June 1981.

2. We do not see any need to set out the facts of the case at length. We do not agree with the appellant's contention that Section 13(i)(g) does not apply. Indeed, without further ado, we agree with the High Court and the direction for eviction.

3. Shri F. S. Nariman, appearing for the appellant, made plea ex misericordiam for another period of 2 years for surrender of possession because of the notorious difficulty in getting alternative accommodation in Bombay. We heard both sides on this aspect of the matter. We consider that in the circumstances of the case, the appellant may be given time for surrender of possession up to January 31, 1982 on condition that he will pay rent @ Rs. 500 per mensem from July 1981 to January 1982 and will further give an undertaking, within one week from today, containing the following three clauses :

(1) that the appellant will voluntarily hand over vacant and peaceful possession of the suit premises to the respondent without need for execution proceedings;

(2) that the appellant will not induct anybody else into occupation of any part of the premises or otherwise or otherwise assign or part with possession; and

(3) that the petitioner will continue to pay regularly a sum equal to the rent that has been fixed between the parties, monthly by month, before the 10th of every month, by way of damages for use and occupation but at the rate of Rs. 500 from July 1981.

If the rent is not paid in time or any of the conditions is not fulfilled or the undertaking is not put in within time, instantaneous eviction will be directed. We direct the appellant to pay to the respondent

costs quantified at Rs. 2,000.

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