

P.V. Shetty

Vs

B.S. Giridhar

Civil Appeal No. 2650 of 1980

(D.A. Desai, A.P. Sen JJ)

31.10.1981

JUDGMENT

1. Procedural wrangle has been brought to his Court, and that too at an interlocutory stage wherein this Court is most reluctant to interfere but this 'hands off' attitude may cause irreparable injustice and that is the justification for interference. The respondent-landlord filed a suit for eviction on the allegation that tenancy of appellant-tenant is determined and he is not entitled to protection of Karnataka Rent Control Act, 1961 ('Rent Act', for short). Prior to the institution of this suit, the appellant claiming to be a tenant on a monthly rent of Rs 650, had filed an application before the Rent Controller for fixation of fair rent. Learned counsel on both sides agree that if fair rent is fixed in an amount exceeding Rs 500 per month such a tenant is not entitled to the protection of the Rent Act. If, on the other hand, fair rent is fixed at Rs 500 or below per month and if other ingredients of expression tenant are satisfied, he will be entitled to the protection of Rent Act. In the suit filed by the respondent-landlord subsequent to the filing of application for fixation of fair rent an application was moved for an interim stay of further proceedings in the suit till the disposal of the application for fixation of fair rent, pending before the learned Rent Controller. This application was rejected and a revision petition at the instance of the appellant to the High Court failed and hence this appeal.

2. The very narration of facts in this case would show what should be the correct approach in this matter. If the stay of further proceedings in the suit, as prayed for by the appellant, is not granted and the suit proceeds and results in eviction, the application for fixation of fair rent becomes infructuous. On the other hand, if the application for fixation of fair rent is allowed holding that the appellant is a tenant as understood under the Rent Act, and the fair rent is Rs 500 or less per month he would be entitled to the protection of the Rent Act which determination will have impact on the suit, subject, of course, to other contentions that may be raised in the suit. Now it is an admitted position that the application for fixation of fair rent preceded the filing of this suit. Obviously, therefore, the just and fair approach, balancing the equities would be to stay further hearing of the suit till the application for fixation of fair rent is decided. But as Mr Datar, learned counsel for the respondent, voices a serious apprehension that in that event the suit may not be decided for years. That is a recurring phenomenon in our courts and we must guard against it.

3. We accordingly direct that further proceedings in the suit filed by the respondent against the appellant be stayed. The learned Rent Controller is directed to give top priority to the application for fixation of fair rent filed by the appellant against the respondent and dispose it of as early as possible, latest within four months from today. We dispose of the appeal accordingly with no order as to costs.

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