

Southern Command Military Engineering Services Employees Coop. Credit Society

Vs

V. K. K. Nambiar (Since Deceased) By Legal Representative Madhvi Devi

Civil Appeal No. 608 of 1979

(A. P. Sen, V. B. Eradi JJ)

27.02.1987

ORDER

1. After hearing learned counsel for the parties, we are satisfied that interference by the High Court with the findings of fact recorded by the lower appellate court in exercise of its supervisory jurisdiction under Article 227 of the Constitution was wholly unwarranted and in excess of its jurisdiction. The High Court was obviously in error in its view that the Commissioner's report could not be acted upon or be treated as legal evidence. The Commissioner's report tends to show that the demised premises are no longer in occupation of the respondent but in occupation of strangers which fact does raise an inference of sub-letting as held by the lower appellate court.

2. We accordingly allow the appeal, set aside the judgment and order of the High Court and restore the judgment and decree passed by the lower appellate court decreeing the plaintiff's suit for eviction. We however direct that the decree for eviction shall not be executed for a period of four months from today provided the respondent files usual undertaking in this Court within four weeks from today. No. costs.

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