

N. T. Bharathi

Vs

Hotel Olympia

Civil Appeal No. 53 of 1989 (Arising out of S.L.P. (C) No. 12490 of 1988)

(S. Natarajan, A. M. Ahmadi JJ)

03.01.1989

ORDER

1. Delay condoned.

2. Special leave is granted.

3. After having heard learned counsel for the parties, we fell that a similar order, as the one passed by this Court in Civil Appeal No. 4668 of 1988 dated December 15, 1988, should be passed in this appeal also. In this case, the admitted position is that the appellant had deposited a sum of Rs. 8500 (Rupees eight thousand five hundred only) towards the arrears of rent and there was a shortfall of only Rs. 200 and this amount of shortfall was also subsequently deposited when it was brought to the notice of the appellant. Even so, the High Court has deemed it fit to dismiss the revision petition is not maintainable under Section 29 (1) of the Karnataka Rent Control Act, 1961. Learned counsel for the appellant states that having regard to the terms of Section 29 (4) of the Act, the High Court ought to have given opportunity to the appellant to show cause rent and since such an opportunity had not been given, the High Court was not justified in dismissing the revision petition as not maintainable. It is further urged by him that the revision petition had earlier been admitted by the High Court in the presence of the counsel for the respondent who had entered caveat and consequently the revision petition once admitted should not have been dismissed by the High Court under Section 29 of the Act as not maintainable.

4. In somewhat similar circumstances that Court has held in C. A. No. 4468 of 1988 (supra that the ends of justice require the order of the High Court being set aside and the matter being remanded the High Court for determination of the question whether the revision petition should be disposed of an merits or dismissed in terms of Section 29 of the Act. As we have earlier stated, this appeal also calls for a similar order being passed. Accordingly. The order of the learned Single Judge dated June 10, 1988 is set aside and the matter is remanded to the High Court for fresh disposal of the revision petition in the light of the contentions raised by the parties. Having regard to the long duration of the pendency of the proceedings, we request the High Court to dispose of the revision petition within three months from this date in accordance with law.

5. The High Court may offer opportunity to the parties to file additional affidavits in support of the respective contentions.

6. The appeal is disposed of accordingly. No costs.

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