

A. Arumugam Chettiyar

Vs

Lokanayakammal (Smt) and Another

Civil Appeal No. 146 of 1995

13.02.1996

ORDER

1. The appellant was put in possession of the house in dispute as a tenant in the year 1971. The landlord mortgaged the house with the tenant by a deed dated 28-4-1977. The question before the High Court was whether the mortgage deed resulted in an implied surrender of the appellant's right in the house as a tenant. The trial court and the High Court have concurrently found that the terms of the mortgage deed conclusively show that there was implied surrender of the tenant's rights. On the said findings the courts below have directed the eviction of the appellant.

2. It is not necessary for us to go into the question in detail as the principles have been authoritatively settled by this Court in *Shah Mathuradas Maganlal & Co. v. Nagappa Shankarappa Malage* ((1976) 3 SCC 660 : AIR 1976 SC 1565), *Gambangi Applaswamy Naidu v. Behara Venkataramanayya Patro* ((1984) 4 SCC 382 : AIR 1984 SC 1728), *Nand Lal v. Sukh Dev* (1987 Supp SCC 87) and in *Nemi Chand v. Onkar Lal* ((1991) 3 SCC 464 : AIR 1991 SC 2046). The High Court on the basis of the law laid down by this Court in the above-mentioned judgments has come to the conclusion that the deed of mortgage in the present case indicates that there was surrender of tenancy and the appellant was only a mortgagee. We do not see any ground to interfere with the concurrent findings reached by the courts below.

3. The appeal is dismissed. No costs.