

Ram Dulari Bai and Another

Vs

Madanlal Bajaj

Civil Appeal No. ... of 1996 (arising out of Slp (C) No. 24145 of 1995)

(M.M. Punchhi, K.T. Thomas JJ)

08.04.1996

ORDER

1. Leave granted.
2. The first appellant is the landlady of the demised premises. Joining with her as the second appellant is her son who is employed at Jabalpur (M.P.) on a transferable job. She, presently, lives with him. The respondent is a tenant in the demised premises situated in a town called Katni. Setting up a plea of bona fide requirement of the premises, the landlady pleaded that it was the last desire of her husband that she live in the house in question and that in order to fulfil that desire she was emotionally bound and wanted to fulfil that wish. The courts below have taken the view that since the house was let out by the first appellant after the death of her husband flouting the aforesaid desire, there was no element of need to get back the house. On that basis, defence has been built that the personal requirement was not bona fide. The High Court has upheld the defence and that has driven the landlady to this Court.
3. We have heard learned counsel and have also gone through the judgment under appeal. The authenticity of the desire expressed by the husband of the first appellant has not been disputed. The landlady has been non-suited by way of punishment as to why in the first instance did she defy the wish of her husband and let out the house. Having done so, she cannot claim it back. This, in our view, is an extremely unsatisfactory way of dealing with the matter like the present one. If the landlady had in some situation transgressed that desire, that did not mean that she was ever precluded from projecting that desire at a later stage, and on rethinking, make amends. Denying her the right to live in that house would bring about a great deal of mental stress and sense of guilt on her, having disobeyed her husband and hence her need to have the house for personal requirement was established. Presently, she is stated to be 75 years of age. Keeping this factor also in view, we upset the impugned orders of the courts below and order eviction of the respondent granting him a year's period to vacate the premises. It is however made clear that if in the meantime the personal need ceases to survive, then the respondent may continue as before as a tenant but if it does, he is obliged to vacate the premises on or before the expiry of one year subject, of course, to the usual terms of payment of rent etc.
4. The appeal stands allowed accordingly. No costs.