

Santosh Devi Soni

v.

Chand Kiran

(Supreme Court Of India)

HON'BLE MR. JUSTICE S.B. MAJMUDAR HON'BLE MR. JUSTICE D.P.  
MOHAPATR

Civil Appeal No.412 of 2000 & Special Leave Petition (Civil) Appeal  
No.14765 of 1999 | 17-01-2000

( 1 ) LEAVE granted.

( 2 ) BY consent of learned counsel for the parties we have heard this appeal finally.

( 3 ) THE short question is whether in the light of the requirements put forward by the respondent-landlady who is a widow and is in occupation of the first floor of the building in which the suit premises are situated leave to defend to the defendant- appellant could have been refused. As this is a case for additional accommodation and looking to the facts and circumstances of the case, especially in the light of the additional accommodation which is subsequently made available to the respondent as mentioned by the appellant, the question of respondent's need was required to be thrashed out on merits by a full-fledged trial. This Court on 11th January, 1990 in Civil Appeal No. 120 of 1990 in the case of Dr. S. M. Misra v. D. D. Malik has ruled that in the cases where additional accommodation is asked for in proceedings under Delhi Rent Control Act, normally leave to defend should not be refused.

( 4 ) CONSIDERING the facts and circumstances of this case, therefore, we deem it fit to grant leave to defend to the appellant and consequently the judgment and order passed by the Rent Controller and as confirmed by the High Court are set aside and the proceedings are remanded to the Rent Controller's Court for deciding the proceedings on merits by treating the appellant to have been granted leave to defend. In view of the pendency of the proceedings since years we direct the Rent Controller to decide the remanded proceedings at the

earliest and preferably within four months from the receipt of a copy of this order at his end.

( 5 ) THE Office of this Court shall send a copy of this order to the concerned Rent Controller for information and necessary action.

( 6 ) WE make it clear that we make no observations on the merits of the controversy between the parties and it will be decided on its own merits after permitting the parties to lead evidence on which they choose to rely.

( 7 ) THE civil appeal is allowed accordingly.

( 8 ) NO costs.