

SUPREME COURT OF INDIA

Bansilal Yadav Etc

Vs.

Suraj Chand Bhagat Etc

17.01.2008

(Tarun Chatterjee and Dalveer Bhandari, JJ.)

C.A.No.511 of 2008

ORDER

(Arising out of S.L.P. (C) No. 774 of 2007)

1. Leave granted.

2. Heard learned counsel for the parties.

3. In our view, there is no need to interfere with the order impugned in this appeal, which has been filed by the landlords-appellants against the impugned order passed by the High Court of Andhra Pradesh at Hyderabad in Civil Revision Petition Nos. 4953-4956, 4960, 4973-76 of 2006. It is an admitted position that an ex-parte order of eviction was passed against the tenants-respondents relating to the premises in question on 16th of February, 2004 and the tenants-respondents were directed to vacate the premises in question within one month from the aforesaid date. Subsequently, on 5th of April, 2004, possession of the premises in question was handed over to the present landlords-appellants. As the possession of the premises in question was taken over by the landlords-appellants, the tenants-respondents filed applications being IA No. 161 of 2004 in R. C. No. 4 of 2004, IA No. 163 of 2004 in R. C. No. 5 of 2004 and IA No. 164 of 2004 in R. C. No. 6 of 2004 praying for an order of injunction restraining the appellants herein from demolishing, changing or altering the structure of the premises in question. The respondents also filed the application under Section 5 of the Limitation Act for condonation of delay of 76 days in filing the application for setting aside the ex-parte orders of eviction. Initially, the Additional Rent Controller dismissed the applications and refused to set aside the ex-parte orders of eviction.

4. Feeling aggrieved, the respondents filed appeals before the Appellate Court and the Appellate Court had set aside the ex-parte orders of eviction and restored the eviction proceedings.

5. Feeling aggrieved, the appellants filed Civil Revision Petitions before the High Court, which were dismissed by the impugned order, which is now under challenge before us.

6. While deciding the Civil Revision cases, the High court made the following observations in the impugned order :-

“23. In view of the aforesaid facts and circumstances, I am of the opinion that the tenants are entitled for the restoration of possession. It is stated that the applications filed by the tenants for restoration of possession are pending. The tenants ought to have filed a simple application straightway under Rule 8 (3) of the Rules for restoration of possession. The Rent Controller without properly appreciating the evidence on record erroneously dismissed the applications without any justification.

24. Having regard to the facts and circumstances of the case and now that the ex-parte orders have been set aside and the eviction petitions have been restored, on the applications filed or to be filed by the tenants under Rule 8 (3) of the Rules, the possession also shall be restored in favor of the tenants. In view of the above, I do not see any illegality or irregularity or impropriety in the orders under the revisions.”

7. On behalf of the appellants, the learned counsel raised a very simple submission. He submitted that the High Court in para 24 of the impugned order, as quoted hereinabove, observed that since the eviction petitions were restored on the applications filed by the tenants- respondents, it would be open to the tenants-respondents to get possession restored in their favor or restoration could be given on the applications to be filed by the tenants-respondents under Rule 8 (3) of the Rules. Therefore, the learned counsel contended that the observations made in para 24, in the manner indicated above, must be deleted. The learned counsel appearing for the tenants-respondents, however, has submitted that they have no objection, if this portion of the order is deleted.

8. That being the stand taken by the parties, we delete the observations made by the High Court, as quoted hereinabove, in its order in para 24 to the above extent :- the eviction petitions have been restored, on the applications filed or to be filed by the tenants under Rule 8 (3) of the Rules, the possession also shall be restored in favor of the tenants.

9. The appeal, therefore, stands dismissed subject to the above modification. There will be no order as to costs. Interim order, if any, shall stand vacated.