

SUPREME COURT OF INDIA

Satish Chand

Vs.

Kailash Chand

C.A.No.5823 of 2008

(Kurian Joseph and R.Banumathi,JJ.,)

11.04.2017

JUDGMENT

Kurian Joseph,J.,

1. Appellant-landlords are aggrieved by the impugned judgment passed in Second Appeal No. 602 of 2002 by the High Court of Madhya Pradesh at Indore whereby the High Court reversed the order of eviction passed by the first appellate court. The first appellate court had reversed the finding of the Civil Judge, Class II, Sanwad (for short "the trial court") on the issue of landlord-tenant relationship and thus aggrieved, the present appeal.

2. The appeal is not contested by the respondent-tenants.

3. The trial court had entered a finding that Vallabhdas, whose heirs are the respondents herein was entitled to sell the property to the appellant-landlords. There was also a finding that there was no landlord-tenant relationship. The first appellate court, having regard to an earlier finding, which was an admitted position in a previous litigation, held that there was landlord-tenant relationship. The court granted eviction on the ground of arrears of rent but declined on the ground of bona fide need. The first appellate court also upheld the right of Vallabhdas to alienate the property to the appellant-landlords and thereafter treating the seller as tenant. The High Court however, took a different stand and held that it was too early for the courts below to enter a finding as to the right of Vallabhdas to sell his property.

4. Having heard the learned senior counsel for the appellants, we are of the view that the High Court in Second Appeal was not justified in reversing the concurrent findings entered by the first appellate court and trial court in the matter of right to sell and in reversing the admitted position of landlord-tenant relationship as found by the first appellate court and denying eviction.

5. First appellate court is the last court on facts. We find no perversity in the findings of the first appellate court. The said court has found on admission that there was landlord-tenant relationship. After entering such a finding only, the eviction was ordered on the ground of

arrears of rent. There is no dispute on these facts. On the right to sell the property by the first respondent's father, the findings are concurrent. In that view of the matter, we allow the appeal, set aside the impugned judgment of the High Court and restore that of the first appellate court. The respondents are given a period of two months to surrender vacant possession to the appellants. No costs.