

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2021 OF 2012
(Arising out of SLP(C) No.20833/2011)

SIDARAMAPPA KASHINATH LINGSHETTI Appellant(s)

:VERSUS:

MISHRILAL RAMJIVAN SARDA (D) THROUGH L.RS. Respondent(s)

O R D E R

1. Leave granted.
2. This appeal has been preferred against the judgment and order dated 2nd February, 2011 and 3rd February, 2011 passed by the High Court of Judicature at Bombay in Writ Petition No.6447 of 1999 whereby the High Court partly allowed the writ petition and remanded the matter to the Trial Court.
3. The appellant-landlord filed a suit for eviction of the respondent-tenant from the suit premises (consisting of ground floor and 1st floor having 5 rooms on each floor) on the ground of bona

bona fide personal requirement. The Trial Court on finding that the tenant had unlawfully sublet a part of the suit premises and the landlord having proved the bona fide personal requirement, decreed the suit for eviction in favour of the appellant-landlord and directed the respondent-tenant to hand over the vacant and peaceful possession of the suit premises within a period of six months.

4. Aggrieved by the order passed by the Trial Court the respondent-tenant filed an appeal before the District Court, Solapur. By his Judgment dated 7.9.1999, the Additional District Judge, Solapur confirmed the decree of eviction passed by the Trial Court and dismissed the appeal. The respondent-tenant thereafter filed a writ petition before the Bombay High Court challenging the concurrent judgments passed by the Trial Court and the District Court. A statement was made on behalf of the respondent-tenant that the tenant shall surrender the entire first floor out of the suit premises to the landlord. The High Court accepting the said statement, granted stay only in respect of the ground floor of the suit premises. The possession of

the first floor of the suit premises was handed over to the appellant-land o 10.8.2000.

5. By its judgment dated 2.2.2011/3.2.2011 the High Court remanded the matter to the Trial Court for considering as to whether it would be possible to divide the ground floor premises into two parts without causing any hardship to either side and to pass a partial decree for possession. The appellant-landlord is, thus, before this Court challenging the judgment and order passed by the High Court.

6. We have heard the learned counsel for the parties and have perused the impugned judgment as also the judgments of the Courts below.

7. In the facts and circumstances of this case, we are of the considered view that the High Court was not justified in remanding the matter to the Trial Court regarding the ground floor of the suit premises. Consequently, the impugned judgment passed by the High Court is set aside, the order passed by the Trial Court is restored and the appeal is allowed. The parties are directed to bear their

respective costs.

8. However, in the interest of justice we deem it appropriate to grant one year's time to the respondent-tenant for vacating the premises upon filing usual undertaking in the Registry of this Court within four weeks from today.

.....J
(DALVEER BHANDARI)

.....J
(DIPAK MISRA)

New Delhi;
February 10, 2012.

JUDGMENT