

NON REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4353 OF 2009
[Arising out of SLP©No.202 of 2009]

Dinkar Sridhar TamhankarAppellant

VERSUS

Bhalchandra Sadashiv KavadiRespondent

J U D G M E N T

TARUN CHATTERJEE, J.

1. Leave granted.
2. In spite of due service of notice on the respondent, the respondent has failed to appear before us for the purpose of contesting the appeal.
3. By the impugned order, a learned Single Judge of the High Court has allowed a review application and modified the decree for possession, which was passed on the ground of bona fide requirement of

the landlord-appellant by the Small Causes Court, Pune and affirmed by the High Court in revision.

4. Feeling aggrieved by this order allowing the application for review, a Special Leave Petition was filed in this Court, which on grant of leave, was heard in presence of the learned counsel for the appellant.
5. In our view, the High Court was not justified in interfering with the concurrent orders of the Courts below in the exercise of its power under Article 227 of the Constitution.
6. It is not in dispute that the decree for eviction on the ground of bona fide requirement was passed in favour of the landlord-appellant by the Small Causes Court, Pune and affirmed by the High Court in revision. It is an admitted fact that an undertaking was filed by the respondent unequivocally binding himself to vacate the premises in question on or before 31st of December, 2008.

7. Such being the position, it was not permissible for the High Court to entertain the review application and modify the decree for eviction passed on the ground of bona fide requirement as we find that there was no error apparent on the face of the record or no other ground under Order XLVII Rule 1 of the CPC was available to the tenant to file such review petition.
8. That being the position, we set aside the impugned order and restore the order passed by the High Court in revision, which affirmed the order of the Small Causes Court, Pune directing eviction of the respondent on the ground of bonafide requirement.
9. For the reasons aforesaid, the appeal is allowed. There will be no order as to costs.

.....J.
[Tarun Chatterjee]

New Delhi;
July 14, 2009.

.....J.
[R.M.Lodha]