

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.542 OF 2009

(Arising out of S.L.P. (C) No.10238 of 2007)

S.P. Raja Shekhar and Ors.

...Appellant(s)

Versus

M. Lalitha

...Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

The eviction petition filed by the appellants on the ground of default in payment of rent and bona fide need was dismissed by Rent Controller, Secunderabad. On appeal, Additional Chief Judge, City Small Causes Court, Hyderabad, after detailed evaluation of the evidence produced by the parties reversed the order of the Rent Controller and granted eviction on the ground that the need of the appellants was bona fide. When the matter was taken in revision, the High Court overturned the finding of fact recorded by the appellate Court on the issue of bona fide need, set aside the order of the appellate Court and restored the order passed by the Rent Controller. Hence, this appeal by special leave.

It is well settled that in exercise of revisional jurisdiction, the High Court cannot re-appraise the evidence and substitute the finding of fact recorded by the final court of fact unless the same is found to be perverse. In the instant case, the High Court without appreciating the limitation of its jurisdiction reversed the judgement of the appellate court, which, in our considered view, was legally impermissible.

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Accordingly, the civil appeal is allowed, impugned order rendered by the High Court is set aside and the order of eviction passed by the appellate court is restored. The respondent is granted time till 31st December, 2009, to vacate the premises in question upon filing usual undertaking in this Court within four weeks from today.

It is directed that in case the respondent fails to vacate the premises in question within the aforesaid time, it would be open to the decree holder to file an execution petition for delivery of possession and in case such a petition has already been filed, an application shall be filed therein to the effect that the respondent has not vacated the premises in question within the time granted by this Court. In either eventuality, the Executing Court is not required to issue any notice to the respondent. The Executing Court will see that delivery of possession is effected within a period of fifteen days from the date of filing of the execution petition or the application aforementioned. In case for delivery of possession any armed force is necessary, the same shall be deputed by the Superintendent of Police within forty eight hours from the date requisition is received therefor. It is also directed that in case anybody else, other than the respondent, is found in possession, he shall also be dispossessed from the premises in question.

[B.N. AGRAWAL]J.

[G.S. SINGHVI]J.

New Delhi,
January 30, 2009.