

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.18 OF 2011

[Arising out of SLP(C) No.20290/2010]

Jonnalagadda Usha Rani

.....Appellant

Versus

Velamala Vasudeva Rao & Anr.

.....Respondents

O R D E R

Leave granted.

2. The appellant, claiming to be the owner in possession, filed a suit against respondents for permanent injunction alleging that she and her husband were carrying on business in the said property from 1998 and the respondents were interfering with such possession. In the said suit, which was filed in July 2005, the defendants (respondents herein) filed an application in 2007 seeking a direction to the appellant (plaintiff in the suit) to deposit arrears of rent at the rate of Rs.5,000/- per month from 1.6.2005. By a non-speaking order dated 9.10.2007, the trial court allowed the said application and the revision filed by the appellant has been dismissed by the High Court by impugned order dated 19.3.2010. The said order is challenged in this appeal by special leave.

3. The appellant contends that she is in possession in her own right. She filed a mere suit for injunction. The respondents claim that appellant is their tenant. If the appellant as tenant had failed to pay rent, it is open to the respondents as landlords/owners to seek possession/eviction or seek a decree for rental arrears. In a suit for permanent injunction filed by the appellant, when the question of title and relationship of landlord and tenant is not in issue, the respondents - defendants cannot claim that the appellant - plaintiff should deposit Rs.5,000/- per month towards rent.

4. On this limited ground, this appeal is allowed and the order dated 19.3.2010 is set aside and the application filed by the respondents - defendants seeking deposit of rent is dismissed. It is made clear that this will not come in the way of the respondents taking such action as is permissible in law to establish that the appellant is their tenant and to recover rents if the appellant is the tenant. All questions left open.

.....J.  
( R.V. RAVEENDRAN )

New Delhi;  
January 03, 2011.

.....J.  
( A.K. PATNAIK )