

CASE NO.:
Appeal (civil) 85-86 of 2002

PETITIONER:
Kasilingam

RESPONDENT:
Abharanji Chettiar

DATE OF JUDGMENT: 21/02/2008

BENCH:
A.K.MATHUR & ALTAMAS KABIR

JUDGMENT:
JUDGMENT
O R D E R
CIVIL APPEAL NOS. 85-86 OF 2002

1. These appeals by special leave are directed against the judgment and order dated 13.11.2000 passed by a learned Single Judge of the High Court of Madras in respondent's C.R.P Nos. 1280/1998 and 1281/1998 whereby the learned Single Judge has reversed the order passed by the First Appellate Court and maintained the judgment and decree granted by the Trial Court.

2. Brief facts which are necessary for the disposal of these appeals are that a suit was filed by the landlord-respondent herein for eviction of the tenant-appellant herein from the premises bearing Door No. 188 (Old No. 112) at Jawaharlal Nehru Street, Pondicherry on the ground that the premises is very old and in a dilapidated condition requiring demolition and that he has taken steps to get permission and approval from the competent authority for demolition and reconstruction. He filed another suit on the ground that the tenant-appellant had ceased to occupy the demised premises under Section 10(2)(vi) of the Pondicherry Buildings (Lease and Rent Control) Act, 1969 (hereinafter for short the 'Act'). The Trial Court decreed both the suits filed by the landlord-respondent and granted decree of eviction against the tenant-appellant herein. Aggrieved against both the said judgments and decrees of the Trial Court, the appellant herein preferred two separate appeals before the Appellate Authority. The Appellate Authority reversed both the judgments and decrees passed by the Trial Court. Aggrieved against the orders passed by the First Appellate Court, the landlord-respondent herein preferred two revision petitions before the High Court of Madras wherein a learned Single Judge has reversed the orders passed by the Appellate Authority and maintained the judgment and decree of the Trial Court. Hence, the present appeals by special leave have been filed by the tenant-appellant.

3. Learned counsel for the appellant submitted that under Section 25 of the Act a revision petition is maintainable before the High Court and in revision the High Court could not have reversed the finding of fact recorded by the First Appellate Court. In support of his submission, he has placed reliance on a decision of this Court in the case of

P.M. Punnoose Vs. K.M. Munneruddin and Others (2003) 10 SCC 610.

4. We have heard counsel for the parties and perused the impugned judgments and orders. It is true that Section 25 of the Act is almost pari materia with the Tamil Nadu (Lease and Rent Control) Act, 1960 (hereinafter for short the "Tamil Nadu Act").

5. Section 25 of the Tamil Nadu Act came up for consideration before this Court in the case of P.M. Punnoose (supra) where this Court held that the revisional jurisdiction conferred upon the High Court is not as narrow as one under Section 115 of the Code of Civil Procedure; nevertheless a finding of fact arrived at by the Appellate Authority cannot be lightly interfered with by the High Court acting like a court of appeal and reappreciating the evidence. Their Lordships in para 17 observed as under:-

"It is true that the revisional jurisdiction conferred upon the High Court is not as narrow as one under Section 115 of the Code of Civil Procedure; nevertheless a finding of fact arrived at by the Appellate Authority cannot be lightly interfered with by the High Court acting like a court of appeal and reappreciating the evidence."

6. The provision of Section 25 of the Act is almost pari materia with the Tamil Nadu

Act and we are of the opinion that the approach of the High Court is correct. The scope of Section 25 is not as narrow as Section 115 of the Code of Civil Procedure. The expression used in Section 25 of the Act is that the High Court can "examine the record of the appellate authority, to satisfy itself as to the regularity of such proceeding or the

correctness, legality or propriety of any decision or order passed therein and if, in any case, it appears to the High Court that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, it may pass orders accordingly." Therefore, the scope of Section 25 of the Act is very wide as the High Court can under this provision examine the record of the appellate authority as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein

and can modify, annul, reverse or remit for reconsideration. This expression in the Act has a wide import and the very fact that the High Court can examine the correctness, legality or propriety of the order necessarily goes to show that the High Court has power to examine the matter with reference to facts also. The High Court in exercise of power under Section 25 of the act has found that the building is about 60 years old and it has developed cracks in it. Therefore, the High Court has rightly interfered with the finding of fact recorded by the Appellate Authority and affirmed the judgment and decree of eviction granted by the Trial Court in the suit.

7. In these circumstances, we are of the opinion that the High Court has under Section 25 of the Act rightly interfered with the finding of fact recorded by the Appellate Authority. Consequently, these appeals fail and are dismissed as such.

8. Since, we have upheld the judgment and order of the High Court on the ground of Section 25 of the Act, we think no useful purpose will be served by going into another issue where the decree of eviction was granted on the ground that the appellant ceased to occupy the premises in terms of Section 10(2)(vi).

9. Keeping in view the facts and circumstances of the case, we grant to the tenant-appellant time till 31st October, 2008 to vacate the suit premises subject to his filing usual undertaking before this Court within a period of four weeks from today. The appellant shall continue to pay the rent month by month to the respondent till 31st October, 2008 and clear all arrears of rent upto date.

Appeals dismissed. No order as to costs.