

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NOS. 8425-8428 OF 2001

DENNY & ORS.

Appellant (s)

VERSUS

VILASINI & ORS.

Respondent(s)

(With office report)

Date: 30/11/2005 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE A.K. MATHUR

For Appellant(s)

Mr. C.N. Sree Kumar,Adv.

Ms. Deepa S.,Adv.

For Respondent(s)

Mr. T.L.V. Iyer,Sr.Adv.

Mr. Abhay Kumar,Adv.

Mr. Gopalakrishnan R.,Adv.

Mr. Sree Narain Jha,Adv.

Mr. Subramonium Prasad,Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

The appeals are allowed.

No costs.

[ Alka Dudeja ]

Court Master

[ Om Prakash ]

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.8425-8428 OF 2001

Denny and Ors.

...Appellant(s)

Versus

Vilasini and Ors.

...Respondent(s)

O R D E R

Heard learned counsel for the parties.

By the impugned order, the High Court in exercise of powers under second proviso to Section 11 of the Kerala Buildings (Lease and Rent Control) Act, 1965, [for short, 'the Act'] directed that there was bona fide denial in relation to title of the landlords and as such it directed that it will be open to the landlords to file a civil suit

in terms of the said proviso before an appropriate civil court. In the present case, it

appears that three persons were impleaded as plaintiffs-Denny, Sara and Joseph

Pindis. Plaintiff No.3 is brother of Plaintiff No.2-Sara and Plaintiff No.1-Denny is son

of Plaintiff No.3. Since, the property belonged to Sara, who was undisputedly a

landlady and one of the plaintiffs, the High Court was not justified in passing the order

purporting to be under second proviso to Section 11(i) of the Act. This being the

position, in our view, the impugned

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order has to be set aside and the matter be remanded to the High Court to consider the entire matter on merits afresh.

Accordingly, the appeals are allowed, impugned order of the High Court is set aside and the matter is remitted to it to dispose of the revision application on merits in accordance with law after giving opportunity of hearing to the parties.

No costs.

..J.

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[B.N. AGRAWAL]

..J.

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[A.K. MATHUR]

New Delhi,

November 30, 2005.