

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

CIVIL APPEAL NO(s). 6177 OF 2004

HINDUSTAN PETROLEUM CORPN. LTD.

Appellant (s)

VERSUS

DILBAHAR SINGH

Respondent(s)

(With office report)

Date: 27/08/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Appellant(s) Mr. Sudhir Chandra, Sr. adv.

Ms. Reshmi Rea Sinha, Adv.
Mr. S.C. Ghosh, Adv.
Mr. Anil Kumar Mishra, Adv.
Mr. Parijat Sinha, Adv.

For Respondent(s) Mr. N.S. Dalal, Adv.

Mr. Darvesh Yadav, Adv.
Ms. Al Mookhmina Muzzammil, Adv.
Mr. R.C. Kaushik, Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard learned counsel for the parties.

In view of the conflicting views of coordinate three Judge Benches of this Court, the matter needs to be considered by a larger bench. Accordingly, the papers be placed before the Hon'ble The Chief Justice for constituting a larger Bench in terms of the signed order.

Considering the facts of the present case, we modify the order dated 17.09.2004 and direct that during the pendency of the appeal, the appellant shall pay rent @ Rs.20,000/- per month from today. This shall, however, be without prejudice to the rights of the parties in the present appeal.

(Ajay Kr. Jain)
Court Master

(Indu Satija)
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6177 OF 2004

Hindustan Petroleum Corporation
Ltd.

.... Appellant

Versus

Dilbahar Singh

.... Respondent

O R D E R

Heard learned counsel for the parties.

The appellant herein is the tenant of the premises in

dispute and the respondent is the landlord.

The respondent-landlord filed an ejectment petition under Section 13(3)(b) of the Haryana (Urban Control of Rent and Eviction) Act, 1973 (hereinafter for short 'the Act') on the ground of bonafide need which was allowed by the Rent Controller vide order dated 3.1.2001. In appeal preferred by the appellant-tenant, the Appellate Authority vide order dated 9.5.2001 set aside the order passed by the Rent Controller holding that there was no bonafide need. Against the said order dated 9.5.2001 of the Appellate Authority, the respondent-landlord filed a revision petition under Section 15(6) of the Act before the High Court of Punjab & Haryana at Chandigarh, which has been allowed by the impugned judgment and order. Hence, the appellant-tenant is before us by way of the present appeal by special leave.

It has been submitted by Mr. Sudhir Chandra, learned senior counsel appearing for the appellant that under Section 15(6) of the Act, the revisional court, which was the High Court in the present case, had no power to re-appreciate the evidence. Section 15 (6) of the Act reads as under :-

"15. Appellate and revisional authorities -

(6) The High Court, as revisional authority, may, at any time, on its own motion or on the application of any aggrieved party made within a period of ninety days, call for and examine the record relating to any order passed or proceedings taken under this Act for the purpose of satisfying itself as to the legality or propriety of such order or proceedings and may pass such order in relation thereto as it may deem fit.

In computing the period of ninety days the time taken to obtain a certified copy of the order shall be excluded."

The question which arises before us is as to the meaning, ambit and scope of the words 'legality and propriety'. Does it mean that the High Court (as revisional authority) under Section 15 (6) of the Act can interfere with the findings of fact of the First Appellate Court?

Learned counsel for the appellant has placed reliance on

a three Judge Bench decision of this Court in the case of Rukmini Amma Saradamma Vs. Kallyani Sulochana And Others (1993) 1 SCC 499 wherein Section 20 of the Kerala Rent Control Act was in question. It was held in the said decision that though Section 20 of the said Act provided that the revisional court can go into the 'propriety' of the order but it does not entitle the revisional court to re-appreciate evidence. A similar view was taken by a two Judge bench of this Court in the case of Ubaiba Vs. Damodaran (1999) 5 SCC, 645.

On the other hand learned counsel for the respondent has relied upon a decision of this Court in the case of Ram Dass Vs. Ishwar Chander and Others AIR 1988 SC 1422 which was also a three Judge Bench decision. It has been held in that case that the expression "legality and propriety" enables the High Court in revisional jurisdiction to re-appraise the evidence while considering the findings of the first appellate Court. A similar view was taken by another three Judge Bench of this Court in the case of Moti Ram Vs. Suraj Bhan and Others AIR 1960 SC 655.

From the above it is clear that there are conflicting views of coordinate three Judge Benches of this Court as to the meaning, ambit and scope of the expression 'legality and propriety' and whether in revisional jurisdiction the High Court can re-appreciate the evidence. Hence, we are of the view that the matter needs to be considered by a larger bench since this question arises in a large number of cases as similar provisions conferring power of revision exists in various rent control and other legislations, e.g. Section 397 of the Code of Criminal Procedure. Accordingly, we direct that the papers be placed before Hon'ble The Chief Justice for constituting a larger Bench.

Considering the facts of the present case, we modify the order dated 17.09.2004 and direct that during the pendency of the appeal, the appellant shall pay rent @ Rs.20,000/- per month from today. This shall, however, be without prejudice to the rights of the parties in the present appeal.

.....J.

(MARKANDEY KATJU)

.....J.
(ASOK KUMAR GANGULY)

NEW DELHI;
AUGUST 27, 2009