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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5883 OF 2008
(Arising out of SLP(C)No.1401 of 2007)

Sunil Kumar

... APPELLANT

VS.

Surendra Kumar Agrarwal & Ors.

... RESPONDENTS

WITH

CIVIL APPEAL NO.5884 OF 2008
(ARISING OUT OF SLP(C) NO.9504 OF 2007)

ORDER

Leave granted in both petitions. Heard the learned counsel for the parties.

CA NO.5883 OF 2008(Arising out of SLP(C)No.1401 of 2007)

The appellant is a tenant in regard to a shop. The rent was Rs.80/- per month. The eviction petition filed by the respondent - landlord against the appellant was rejected on 18.10.2003. However, the Revisional Court allowed the revision of the landlord and granted eviction on 19.10.2004. Feeling aggrieved the tenant filed a writ petition before the High Court.

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In the said writ petition, the High Court has made an interim order dated 15.12.2006 directing the tenant to pay a rent of Rs.4900/- per month with effect from December, 2006, with a 10% increase every five years until further orders under the Act. The High Court also directed that if the tenant fails to pay the aforesaid rent, he could be evicted from the suit premises. The High Court has calculated the rent for the shop area as Rs.10/- per sq.ft. and for the veranda area as Rs.3/- per sq.ft. without any supporting material and increased the rent payable from Rs.80/- per month to Rs.4900/- per month.

CA NO.5884 OF 2008 (ARISING OUT OF SLP(C) NO.9504 OF 2007)

The appellants are the tenants in regard to suit premises on a monthly rent of Rs.75/-. The landlords filed an application for release of the said premises. The Prescribed Authority allowed the petition in part by order dated 5.11.1988. The said order was challenged by the tenants as well as landlords and the appeals were dismissed on 25.4.1995. Feeling aggrieved the tenant filed a writ petition before the High Court. The High Court by an interim order dated 26.10.2006, has directed the tenant to pay a rent of Rs.4850/- per month plus water and electricity charges from October, 2006 (with an increase of 10% every five years till further orders under the Act).

In both appeals, the question raised is whether the High Court could by way of an interim order direct the tenant to pay a rent fixed arbitrarily without reference to the provisions of the Act. The court has not assigned any reason for increasing the rent by more than 60 times.

In Niyas Ahmad Khan vs. Mahmood Rahmat Ullah Khan [2008 (7) SCC 539], this Court has held that the High Court cannot arbitrarily increase the rent as has been done in this case. Following the said decision, these appeals are allowed and the impugned orders of the High Court are set aside. It is, however, made clear that this order will not come in the way of the landlord-respondent making appropriate application in regard to non-payment of rents, or the High Court imposing reasonable conditions as mentioned in para 9 in Niyas Ahmad Khan (supra).

.....J
[R. V. Raveendran]

.....J
[Lokeshwar Singh Pantia]

New Delhi;
September 26, 2008.
ITEM NO.36

COURT NO.10

SECTION XI

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).1401/2007

(From the judgement and order dated 15/12/2006 in CMWP No. 53584/2004 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

SUNIL KUMAR

Petitioner(s)

VERSUS

SURENDRA KUMAR AGARWAL & ORS.

Respondent(s)

(With prayer for interim relief and office report)
WITH SLP(C) NO. 9504 of 2007(With office report)

Date: 26/09/2008 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Petitioner(s) Mr. Pramod Swarup, Adv.
Ms. Pareena Swarup, Adv.
Ms. Pooja, Adv.
Mr. Ameet Singh, Adv.
Mr. B.D. Jha, Adv.
Mr. S.D. Singh, Adv.

For Respondent(s) Mr. Ashok Kumar Sharma, Adv.
Mr. Sanjay Misra, Adv.
Mr. Avinash Kumar Jain, Adv.

Dr. Madan Sharma, dv.
Mr. Bikas Kar Gupta, Adv.
Ms. Asha Upadhyay, Adv.
Mr. R.D. Upadhyay, Adv.

UPON hearing counsel the Court made the following
ORDER

Leave granted.

The appeals are allowed in terms of the signed order.

(PAWAN KUMAR)
COURT MASTER

(ANAND SINGH)

COURT MASTER

(signed order is placed on the file)