

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

CIVIL APPEAL NO(s). 2287 OF 2006

P. RAJANNA

Appellant (s)

VERSUS

K. LALITHA REDDY @ CHINNAMADEV I & ANR.

Respondent(s)

(With office report)

Date: 20/04/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MR. JUSTICE A.K. PATNAIK

For Appellant(s) Mr. N.D.B.Raju, Adv.for
Mr. Goodwill Indeevar,Adv.

For Respondent(s) Mr. Pallay Shishodia, Sr. Adv.
Ms. Sunaina Dutta, Adv.for
Mrs.Suchitra Atul Chitale,Adv.

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

The Appeal is allowed in terms of the signed order.
No costs.

(Parveen Kr. Chawla)
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. 2287 OF 2006

P.Rajanna

..Appellant

versus

K.Lalitha Reddy @ Chinnamadevi & Another

..Respondents

O R D E R

Heard learned counsel for the parties.

This Appeal has been filed against the impugned of
the High Court of Andhra Pradesh dated 10th November, 2004.

The facts in detail have been set out in the judgment of the High Court and also in the order of the Rent Control Authority and hence we are not repeating the same here.

It appears that the appellant was the tenant of the premises in dispute and the respondents are the landlords. The respondents filed an eviction petition before the Rent control Authority which was decreed by order dated 19th June, 1990. That order was affirmed by the first appellate Court on 28th June, 1993. Against the appellate Court's order a revision was filed in the High Court.

Initially, an interim order was passed by the Revisional Court staying the eviction of the appellant but that order was not continued and hence the tenant was evicted. However, ultimately, the revision petition was allowed by the Andhra Pradesh High Court by its judgment

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dated 10th October, 1995, a copy of which is annexed as Annexure P-3 to this appeal. Against the said judgment dated 10th October, 1995, Special Leave Petitions Nos.25991-25994 of 1995 were filed in this Court and this Court by its order dated 04th December, 1995 dismissed the special leave petitions.

The High Court by its judgment dated 10th October, 1995 set aside the eviction decree and it also, inter alia, directed that the tenant shall be put back in possession of the premises in question. Since, the special leave petitions challenging this judgment were dismissed by this Court, the said judgment had attained finality.

When an order is reversed by an Appellate Court, it is the duty of the Appellate Court to grant restitution under Section 144 of the Code of Civil Procedure, 1908. It seems that in this case, the landlords have tried to play too smart with the Court. When the judgment of the High Court was passed on 10th October, 1995, they obviously

thought that they may have to give back the possession of the premises in dispute to the tenant, and so it appears that they quickly demolished the building in dispute so as to prevent the restitution to the tenant. We cannot allow and appreciate these kinds of tactics by people who tried to frustrate the orders of the High Court and this Court by such demolition. The judgment of the Andhra Pradesh High Court dated 10th October, 1995 against which the special leave petitions were dismissed by this Court had been

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practically rendered infructuous. We are of the clear opinion that the demolition was done to flout the orders of the Court dated 10th October, 1995 and 04th December, 1995 and hence we cannot agree with the view taken by the Division Bench in its judgment dated 10th November, 2004.

Accordingly, we allow this appeal, set aside the impugned judgment of the High Court and direct that the possession of the land on which the building stood should be restored forthwith to the appellant herein. We further direct the Executing Court which in this case is the Munsif-cum-Rent Control Authority to assess the value of the building demolished by the respondents herein within eight weeks from today and the respondents are directed to pay the said sum to the appellant-tenant within six weeks thereafter so as to enable the appellant to construct the building thereon and make use of it. No costs.

.....J.
[MARKANDEY KATJU]

NEW DELHI;J.
APRIL 20, 2010. [A.K. PATNAIK]