

(Signed order is placed on the file)

.PA
.PL58

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 2447-2449 OF 2000@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC

SHAM RAO

...APPELLANT

VERSUS

SARVAN SINGH

...RESPONDENT

O R D E R@@
CCCCCCCC

.....L.....I.....T.....T.....T.....T.....T.....J
.SP2

The decree under appeal, put in issue by three of the tenants in the suit accommodation which appears to be a large property, is one for eviction under Clause (j) of sub-Section (1) of Section 21 of the Karnataka Rent Control Act, 1961 (hereinafter referred to as 'the Act', for short). The High Court has held that the premises are reasonably and bonafide required by the landlord for the immediate purpose of demolition and erecting a new building in place thereof. It appears that in the premises owned by the landlord there were 22 tenants out of whom, as pointed out by the learned counsel for the landlord-respondent, 15 vacated without any contest and proceedings for eviction were initiated and prosecuted against 7 tenants only. Out of these 7 tenants who suffered the order of eviction, only 5 appealed before the High Court and only 3 have pursued their contest by filing these appeals by special leave before this Court. We have heard at length learned counsel for the ..2/-

.2.

tenants-appellants. His principal submission is that the proposed construction is likely to defeat the tenants right to re-entry under Section 27 of the Act.

The cause for grievance is an observation made in the judgment of the High Court that it cannot be said that without regard to the circumstances of the case, the re-construction of the building should be such as to accommodate every tenant displaced by the order of eviction. The second cause for grievance of the tenants-appellants is a factual admission made by the landlord Sarvan Singh in his statement before the trial Court wherein he has stated that 'it was true that as per plan, Exhibit-P1 (of proposed construction), it is not possible to lease portions of the house to my tenants.' However, during re-examination, with the leave of the court, he stated that 'after the construction is made as per Exhibit-P1, I am going to make suitable constructions

for the purpose of leasing portions of house to my tenants.'

Under the Scheme of the Act, the right of the tenant to re-entry is qualified by certain conditions to be satisfied after a decree for eviction has been passed by the court under Section 21(1)(j). The tenant may, within six months from the date on which he delivered ..3/-

.3.

vacant possession of the premises to the landlord, give notice to the landlord of his intention to occupy the new building on its completion subject to the conditions satisfied in Clauses (a) and (b) of Section 27. Once the tenant has given such a notice, on receipt thereof by the landlord, the landlord shall, under Section 28, in not less than three months before the date on which the erection of new building is likely to be completed, intimate the tenant the date on which the said erection shall be completed. On the said date the tenant shall be entitled to occupy the building. It appears that the Legislature thought that all the tenants, if there be more than one, in the erstwhile building, may not exercise their right to re-occupy the new building on its completion and therefore, the right is conferred only on such of the tenants as express their intention to exercise the right by serving notice on the landlord in the manner contemplated by Section 27 of the Act and be willing to comply with the conditions set out in Clauses (a) and (b) of Section 27.

In the facts of the present case, as pointed out by the learned counsel for the landlord-respondent and not disputed by the learned counsel for the tenants-appellants, out of 22 tenants 15 had already ..4/-

.4.

vacated and in their case the question of exercising the right to re-occupy under Section 27 may not arise. Only the appellants are keen on exercising right to re-occupy. The observations made by the High Court, which have impelled the tenants to file these appeals have to be read in the light of the statutory provisions contained in Sections 27 and 28 of the Act. Still to allay the apprehension of the tenant-appellants, we clarify that any observation made in the judgment of the High court shall not be construed as defeating the right of the tenants available to them under Section 27 and the obligation of the landlord statutorily cast on him by Section 28. The landlord shall remain bound by the statement made by him before the trial Court.

Subject to the aforesaid observations, the appeals are dismissed and the order of eviction is maintained.

.SP1

.....J.
(R.C. LAHOTI)

New Delhi,J.

November 7, 2001.

(BRIJESH KUMAR)