

-versus-

Indira Devi Attavar

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Respondent

O R D E R

The appellant is the tenant of the premises in dispute. The respondent herein filed petition for eviction of the appellant from the premises in dispute on the ground of default in payment of arrears of rent. The Munsif dismissed the petition. Aggrieved, the landlord preferred a revision petition before the District Judge. The Additional District Judge found that the appellant/tenant has committed default in payment of rent for two months and, therefore, is liable to be evicted. In that view of the matter, the revision was allowed and the petition filed by the landlord stood allowed. Aggrieved, the tenant preferred second revision petition before the High Court of Karnataka. The High Court dismissed the petition. It is against the said judgment, the tenant has preferred this appeal by way of Special Leave Petition.

Learned counsel appearing for the appellant urged that the view taken by the High Court that the appellant committed default in payment of rent is based on no evidence and, therefore, deserves to be set aside. We do not find any merit in the submission. It was found by the courts below that two cheques each for a sum of Rs. 150/- were sent under the signature of S.P. Singheri to the landlord. The same were returned by the landlord to the sender, namely S. P. Singheri on the premise that S. P. Singheri is not his tenant. It was also followed by a notice. It was also found that the appellant did not reply to the said notice. The courts below further found that no evidence was led by the appellant to show that S. P. Singheri was the appellant himself. In the absence of such an evidence, the revisional court recorded a finding of fact that S. P. Singheri who sent the said two cheques was not the appellant/tenant and as such the appellant committed default in payment of rent. The said finding is not shown to suffer from any infirmity.

We, therefore, do not find any merit in this appeal. It is accordingly, dismissed. There shall be no order as to costs.

After the judgment was dictated, learned counsel appearing for the appellant, stated that in case appellant is required to vacate the premises immediately he shall be put to great hardship and, therefore, some time may be granted to vacate the premises. To this learned counsel for the respondent has no objection. We, therefore, direct that the appellant shall not be evicted from the premises in dispute till 30th October, 2002 provided he files a usual undertaking in this Court within four weeks from today. In case such an understanding is not filed, this part of our order shall stand automatically vacated without further reference to the Court.

& & & & & & & ..J.
(V. N. Khare)

& & & & & & & ..J.
(Ashok Bhan)

New Delhi;
February 27, 2002

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