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SLP(C)No. 10976 OF 1999

ITEM No.204

Court No. 1

SECTION XIV
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.10976/1999

(From the judgement and order dated 21/05/1999 in CR 524/99
of The HIGH COURT OF DELHI AT N. DELHI)

MOHD. YUSUF

Petitioner (s)

VERSUS

SHARIFUDDIN

Respondent (s)

(With prayer for interim relief)
(For Final Disposal)

Date : 09/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. Sudhir Kulshreshtha, adv.
Ms. Reena Singh, adv.
Mr. Anil Kumar Sharma, adv.

For Respondent (s) Mr. S. Ravindra Bhat, adv.

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

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

Leave granted.

The appeal is allowed in terms of the signed order.

No costs.

.SP1

(Neena Verma)
Court Master

(Prem Prakash)
Court Master

Signed order is placed on the file.

.PA

.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1145 OF 2001@@
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(@ Special Leave Petition (C) No.10976/1999)

Mohd. Yusuf Appellant

Versus

Shri Sharifuddin Respondent

O R D E R@@
CCCCCCCC

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

On 16.08.1999, the following order was made at the
time of issuance of notice in the special leave petition :

.....L.....I.....T.....T.....J
.SP1

"Notice to issue to show
cause why the impugned order of the
High Court should not be set aside
and the proceedings should not be
remanded to the High Court for
re-consideration of the main
question whether on the facts and
circumstances of the case leave to
defend should have been granted to
the petitioner.

There will be ad interim
stay of the decree for possession in
the meantime.

Notice shall state that the
matter will be disposed of finally
at the S.L.P. stage itself."

...2/-

: 2 :

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

We have heard learned counsel for the parties.
Leave granted.

Shorn of all details, the facts giving rise to
filing of the present appeal by special leave are that the
respondent-landlord filed an eviction petition in 1990,
seeking eviction of the appellant on various grounds,

principal ground being bona-fide requirement for personal use. The learned Additional Rent Controller dismissed the petition on 3rd September, 1996. A little less than two years later, the respondent-landlord filed another petition for eviction in which notice was issued to the appellant, who filed an application under Section 25-B of the Delhi Rent Control Act seeking leave to defend and contest the suit. It was mentioned in the application that the ground on which the second eviction petition had been filed was the same on which the first eviction petition had failed. The respondent - landlord opposed the application by urging certain other grounds too. On 18th January, 1999, the learned Additional Rent Controller refused to grant leave and allowed the eviction petition filed by the respondent-landlord. A revision filed by appellant-tenant under proviso to Clause-8 of Section 25-B of the Delhi Rent ...3/-

: 3 :

Control Act in the High Court failed vide order dated 21.5.1999. It is this order of the High Court which has been put in issue before us.

After perusing the record and hearing learned counsel for the parties, but without expressing any opinion on the merits of the case, it appears appropriate to us that the learned Additional Rent Controller was not justified in refusing leave to the appellant to defend the eviction petition. His application under Section 25-B of the Delhi Rent Control Act ought to have been allowed and an opportunity given to him to contest the claim of the respondent - landlord. The High Court fell in error in not dealing with the application of the tenant in its true perspective. We, therefore, consider it appropriate to set aside the order of the High Court as also that of the Additional Rent Controller, dated 18.01.1999 and we hereby do so. Allowing the application filed by the appellant under Section 25-B of the Delhi Rent Control Act and granting him leave to defend the eviction petition, we remand the eviction petition to Additional Rent Controller for its disposal in accordance with law after giving opportunity to the parties to lead evidence and have their say.

...4/-

: 4 :

The matter has been pending for a sufficiently long time. We consider it desirable that the Additional Rent Controller should deal with the matter expeditiously and as far as possible, dispose of within one year from the date of this order.

The appeal succeeds and is allowed to the extent indicated above. No costs.

.SP1

.....CJI.

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

New Delhi,

.....J.

February 09, 2001.

(BRIJESH KUMAR)