

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). 6954 OF 2005

MEENAKSHI CHANDRAKUMAR & ORS.

Appellant (s)

VERSUS

KALYANI AMMA SREEDEVI AMMA & ORS.

Respondent(s)

(With prayer for interim relief and office report)

Date: 22/10/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
 HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Appellant(s) Mr. M.T. George, Adv.
 Ms. Smitharani M.R., Adv.

For Respondent(s) Mr. C.S. Rajan, Sr. Adv.
 Mr. A. Raghunath, Adv.

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

Heard learned counsel for the parties.

The Rent Controller and the first appellate Court held that there was no bonafide need of the landlord and hence dismissed the eviction petition. However, the High Court, in revision under Section 20 of the Kerala Buildings (Lease and Rent Control) Act, 1965, hereinafter 'the Act', for short, held that the landlord has bonafide need of the premises.

It has been submitted by Mr. M.T. George, learned counsel for the tenant-appellant that the High Court should not have interfered with the findings of fact recording bonafide need given by the trial Court and the first appellate Court. It may be noted that Section 20(1) of the Act states:

....2.

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"20.(1) In cases where the appellate authority empowered under section 18 is a Subordinate judge, the District Court, and in other cases the High Court, may, at any time, on the application of any aggrieved party, call for and examine the records relating to any order passed or proceedings taken under this Act by such authority for the purpose of satisfying itself as to the legality, regularity or propriety of such order or proceedings, and may pass such order in reference thereto as it thinks fit."

A perusal of the above provision shows that the words used in Section 20(1) are 'legality, regularity or propriety'. Thus Section 20(1) does not use only the word 'legality' but it also uses the words 'regularity' and 'propriety'.

The question before us is whether this would entitle the High Court to interfere with findings of fact of the court below in revision under section 20(1). On this point, there are two conflicting three-Judge Bench decisions of this Court and hence in Civil Appeal No.6177/2004 we have referred the matter to a larger Bench to resolve the controversy.

This appeal may also be tagged alongwith C.A. No.6177/2004 which has been referred to a larger Bench.
(Ravi P. Verma) (Indu Satija)
Court Master Court Master