

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 2639 OF 2016
(ARISING FROM SLP(C) NO.18405/2013)

HEMIBAI NANDWANI

APPELLANT (S)

VERSUS

KAILASH AGRAWAL

RESPONDENT (S)

O R D E R

Leave granted.

Heard Mr. Sushil Kumar Jain, learned senior counsel appearing for the appellant.

In spite of service effected on the sole respondent, respondent failed to appear either in person or through counsel, therefore, the appeal is heard ex parte on merits.

A perusal of the impugned judgment discloses that the respondent's revision as against the order of eviction passed by the learned Rent Controller dated 20.10.2011 in Case No.07/05-06/90-7/RENT under Section 23A of the M.P. Accommodation Control Act, 1961, came

to be set aside. We also perused the order of the learned Rent Controller, in paragraph 23 and 24, the learned Rent Controller has discussed the evidence relating to the bonafide requirement of the appellant, namely, for starting of business i.e. a shop for her son one Mr. Ashok Nandwani, who was unemployed and who had to maintain his wife, two children, apart from the appellant herein. The temporary shop in which he was doing business was also held to be not in his possession as from 2.8.2010 and that there was no other evidence to show that the appellant possessed any other commercial accommodation of her own within the limits of Gwalior Municipal Corporation. Taking into account such unimpeachable evidence available on record, the learned Rent Controller allowed the application for eviction and also determined the rent payable during the pendency of the eviction proceedings @ Rs.4,500/- per month till handing over the possession. The Rent Controller also directed that such rent is payable to the appellant as the standard rent payable to the appellant for

a period of one year. As against the above reasoning which weighed with the learned Rent Controller while ordering eviction, in the impugned judgment we do not find any consideration as regards the said relevant evidence, which was considered by the learned Rent Controller while allowing the revision petition. While that being so, the High Court without any reasoning came to an abrupt conclusion that the learned Rent Controller failed to consider the bonafide requirement of the appellant.

Having perused the order of the learned Rent Controller, we find that what has been discussed by the Rent Controller, namely, the requirement of the premises for opening a shop by the son of the appellant on whom the appellant as well as his family was dependent and that there was no other suitable premises available with the appellant to support its conclusion on the bonafide requirement of the appellant.

In such circumstances, we are convinced that the impugned judgment of the High Court

cannot be sustained. The impugned order is set aside and the appeal stands allowed. The eviction ordered by the learned Rent Controller shall stands restored.

.....J.
[FAKKIR MOHAMED IBRAHIM KALIFULLA]

.....J.
[S.A. BOBDE]

NEW DELHI;
MARCH 08, 2016.

ITEM NO.1

COURT NO.6

SECTION IVA

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 (C) No(s). 18405/2013

(Arising out of impugned final judgment and order dated 16/04/2013
in CR No. 142/2011 passed by the High Court of M.P. at Gwalior)

HEMIBAI NANDWANI

Petitioner(s)

VERSUS

KAILASH AGRAWAL

Respondent(s)

(With appln(s) for permission to file additional documents and
interim relief and office report)

Date : 08/03/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA
HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s) Mr. Sushil Kumar Jain, Sr. Adv.
Mr. Niraj Sharma, Adv.
Mr. Sumit Kumar Sharma, Adv.

For Respondent(s)

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

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NARENDRA PRASAD)
COURT MASTER

(SUMAN JAIN)
COURT MASTER

(Signed order is placed on the file)