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ITEM NO.13

COURT NO.5

SECTION IVA

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).24354/2012

(From the judgement and order dated 05/03/2012 in SA No.255/1995 of The HIGH COURT OF CHHATTISGARH AT BILASPUR)

PRABHASH CHANDRA Petitioner(s)

VERSUS

VEENA BANTHIA(D) TR.LRS.& ORS. Respondent(s)

(With appln(s) for exemption from filing O.T. and with prayer for interim relief and office report)

Date: 19/09/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s) Mr. Ardhendumauli Kumar Prasad, Adv.

Mr.Nirmal Kumar Ambashtha, Adv.

Mr.Aviral Shukla, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

This petition is directed against judgment dated 5.3.2012 of the learned Single Judge of the Chhattisgarh High Court whereby the second appeal filed by the respondents was allowed, the decree passed by the lower appellate Court was set aside and the one passed by the trial Court for eviction of the petitioner from the suit premises was restored.

We have heard learned counsel for the petitioner and perused the record.

The suit filed by Mohammad Hussain (original landlord of the petitioner) for eviction was dismissed by the trial Court but a finding was recorded that the suit premises were residential in nature. The judgment and decree passed in the case of Mohammad Hussain was confirmed by First Additional District Judge, Raipur and also by the High Court.

After purchasing the suit property from Mohammad Hussain in 1979, the respondent, who is now represented by her legal representatives, filed suit for eviction of the petitioner on the ground of bona fide need of herself and her family members including son - Vijay Kumar and default in payment of rent. The trial Court decreed the suit and ordained eviction of the petitioner on the ground that the respondent's need was bona fide. The trial Court also directed the petitioner to pay compensation at the rate of Rs.10/- per day for the period from 1.1.1981 to 1.8.1987. The lower appellate Court allowed the appeal preferred by the petitioner and reversed the decree passed by the trial Court by observing that after purchase of other accommodation by the husband of the respondent, she did not need the suit premises.

The second appeal filed by the respondent was allowed by the High Court and the decree of eviction passed by the trial Court was restored on the premise that the respondent was living in a rented accommodation and she did not have her own accommodation.

In our view, the findings recorded by the trial Court and the High Court on the issue of bona fide need of the respondent is based on correct analysis of the pleadings and evidence produced by the parties and

the impugned judgment does not call for interference under Article 136 of the Constitution.

The special leave petition is, accordingly, dismissed. However, the petitioner is allowed one year's time to vacate the suit premises and hand over possession thereof to the respondents. This would be subject to his filing usual undertaking in this Court within four weeks from today.

It is made clear that during the intervening period, the petitioner shall not induct any other person in the suit premises in any capacity whatsoever.

If the petitioner fails to file the required undertaking or violate any of the conditions of undertaking or induct any other person in the suit premises, then he shall make himself liable to be punished under the Contempt of Courts Act, 1971.

(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master