

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).17144/2005

(From the judgement and order dated 29/06/2005 in RCR No.380/2004
of The HIGH COURT OF KERALA AT ERNAKULAM)

A.MUJIB RAHMAN

Petitioner(s)

VERSUS

MUHAMMED BASHEER

Respondent(s)

(With office report)
[For Final Disposal]

Date: 16/11/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE MR. JUSTICE G.S. SINGHVI

For Petitioner(s) Mr. T.L.V. Iyer, Sr. Adv.
Mr. Subramonium Prasad, Adv.

For Respondent(s) Mr. P. Krishnamoorthy, Sr. Adv.
Ms. C.S. Rajani, Adv.
Mr. M.T. George, Adv.

UPON hearing counsel the Court made the following
ORDER

Leave granted.

Heard learned counsel for the parties.

The appeal is allowed, impugned order is set aside and order
passed by the appellate court is restored. The tenant is granted time till
30th November, 2008, to vacate the premises in question upon filing usual
undertaking in this Court within six weeks from today.

[Alka Dudeja]
Court Master

[Om Prakash]
Court Master

[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5277 OF 2007
(Arising out of S.L.P. (C) No.17144 of 2005)

A. Mujib Rahman

...Appellant(s)

Versus

Muhammed Basheer

...Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

The Rent Controller dismissed the petition for eviction on the ground of bona fide need. Against the said order, when appeal was preferred, the order was reversed and prayer for eviction was granted on the ground that the landlord bonafide required the premises in question. Thereafter, the tenant took up the matter before the High Court in revision and, by the impugned order, revision application has been allowed, order passed by the appellate court set aside and the same rendered by the Rent Controller restored. Hence, this appeal by special leave.

The High Court, while setting aside the order passed by the first appellate court, has nowhere found that the finding of fact recorded by the first appellate court was perverse one. It is well-settled that if finding of fact is found to be perverse, the same could have been assailed even in the revisional jurisdiction. As in the present case the finding of fact was not perverse one, in our view, the High Court was not justified in reversing the order of the appellate court.

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Accordingly, the appeal is allowed, impugned order is set aside and order passed by the appellate court is restored. The tenant is granted time till 30th November, 2008, to vacate the premises in question upon filing usual undertaking in this Court within six weeks from today.

.....J

[B.N. AGRAWAL]

.....J

[G.S. SINGHVI]

New Delhi,
November 16, 2007.