

C.A.No. 2441-2447 OF 1998
ITEM NO.116

COURT No.6

SECTION IVA

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.2441-2447/1998@@
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Halgeri Sri Hanamantha Devara Devasthan

Appellant (s)

VERSUS

Umashankar Malkajappa Lonikar & Ors.

Respondent (s)

Date : 08/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE S.N. VARIAVA

For Appellant (s) Mr. Shankar Divate,Adv. for
Ms. Lalita Kaushik,Adv.

For Respondent (s) Mr. P. R. Ramasesh,Adv.

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

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

.SP2

The appeals are allowed. There shall be no order
as to costs.

.SP1

(Neelam Kawatra)
Court Master

(S. Krishnan)
Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 2441-2447 OF 1998

Halgeri Sri Hanamantha Devara Devasthan .. Appellant (s)

-versus

Umashankar Malkajappa Lonikar & Ors. .. Respondent(s)

O R D E R

The short question that arises for consideration is as to whether a Trust or all the trustees of a Trust are required to obtain permission of the Charity Commissioner under Sections 50 & 51 of the Bombay Public Trust Act before filing a suit for ejection against the tenant from the premises owned by the Trust. The High Court has taken a view that without such a permission, a suit for ejection would not be maintainable. It is against the said judgment, the Trust has filed these appeals.

We have heard learned counsel for the parties and we are of the view that paragraph 14 of the decision in the case of Shree Golaleshwar Dev & Ors. vs. Gangawwa Kom Shantayya Math & Ors. reported in (1985) 4 SCC 393 clinches the issue. A reading of the paragraph shows that in such a situation, no permission of Charity Commissioner is required when Trust files a suit for ejection against a tenant. Subsequently, the Act has also been amended which provides that no such permission of Charity Commissioner is required before filing a suit for eviction of a tenant from the premises owned by the Trust.

For the aforesaid reasons, the appeals deserve to be allowed. The judgment and order of the High Court is set aside. The trial court is directed to decide the suit expeditiously.

The appeals are allowed. There shall be no order as to costs.

& & & & & & & & ..J.
(V.N.Khare)

& & & & & & & & ..J.
(S.N.Variava)

New Delhi;
February 08, 2001