

CASE NO.:
Appeal (civil) 6296 of 1998

PETITIONER:
MAHENDRA SAREE EMPORIUM

RESPONDENT:
G.V. SRINIVASA MURTHY

DATE OF JUDGMENT: 01/05/2002

BENCH:
R.C. LAHOTI & B.N. AGRAWAL

JUDGMENT:
JUDGMENT

2002 (3) SCR 694

The Judgment of the Court was delivered by

Proceedings for eviction of tenant from the suit premises were initiated under Section 21 of the Karnataka Rent Control Act, 1961 before the court. The High Court has allowed the landlord's claim for recovery of possession of the suit premises on the ground of sub-letting by the tenant. The decree passed by the High Court has been put in issue by the tenant by filing this appeal under Article 136 of the Constitution by special leave. During the pendency of the appeal the Karnataka Rent Act, 1999 has come into force with effect from 31st December, 2001. Section 70 of the 1999 Act-dealing with repeal and savings provides as under :

"70. Repeal and Savings-(1) The Karnataka Rent Control Act, 1961 (Karnataka Act 32 of 1961) is hereby repealed.

(2) Notwithstanding such repeal and subject to the provisions of Section 69 -

(a) all proceedings in execution of any decree or order passed under the repealed Act, and pending at the commencement of this Act, in any Court shall be continued and disposed of by such Court as if the said enactment had not been repealed;

(b) all cases and proceedings other than those referred to in clause (a) pending at the commencement of this Act before the Controller, Deputy Commissioner, Divisional Commissioner, Court, District Judge or the High Court or other authority, as the case may be, in respect of the premises to which this Act applies shall be continued and disposed of by such Controller, Deputy Commissioner, Divisional Commissioner, Court, District Judge or the High Court or other authority in accordance with the provisions of this Act.

(c) all other cases and proceedings pending in respect of premises to which this Act does not apply shall as from the date of commencement of the Act stand abated.

(3) Except as otherwise provided in Section 69 and in sub-section (2) of this section, provisions of Section 6 of the Karnataka General Clauses Act, 1899 (Karnataka Act III of 1899), shall so far as may be applicable in respect of repeal of the said enactment, and Sections 8 and 24 of the said Act shall be applicable as if the said enactment had been repealed and re-enacted by this Act."

It is not disputed that the area of the suit premises used for non-residential purposes exceeds fourteen square meters. Hence looking to the provisions of clause (g) of sub-section (3) of Section 2 of the 1999 Act,

the provisions of the 1999 Act do not apply to the suit premises and, therefore, by virtue of clause (c) of sub-section (2) of Section 70 of the 1999 Act these proceedings shall stand abated.

That being the position of law this appeal cannot be decided on merits and stands abated without any adjudication on merits. It be treated as disposed of.

JUDIS