

h.

C.A.No. 5601 OF 1999

.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp

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Item No.104

Court No.8

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

CIVIL APPEAL NO. 5601 OF 1999.@@

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Vishwakalanikethan

...Appellant(s)

Vs.

Mrs. Annapoorna

...Respondent(s)

[With office report]

Date:25/09/2001 This matter(s) was called on for hearing today.

CORAM:

HON'BLE MR.JUSTICE SYED SHAH MOHAMMED QUADRI
HON'BLE MR.JUSTICE S.N. PHUKAN

For the appellant(s) : Mr.SN Bhat,Adv.

For the respondent(s) : Mr.R.Mohan,Sr.Adv.
M/s C.Jayaraj,V.Mohana,Advs.

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

.SP2

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The appeal is dismissed in terms of the signed order, but
without costs.

.SP1

[Naresh Kumar]
Court Master

[Kanwal Singh]
Court Master

[Signed order is placed on the file.]

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.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp

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.PL55

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5601 OF 1999@@
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Vishwakalanikethan ...Appellant

Vs.

Smt. Annapoorna ...Respondent

O R D E R@@
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.SP2

This appeal, by special leave, is by the unsuccessful tenant (a Society registered under the Karnataka Societies Registration Act) of premises No.12 & 12A, 6th Division of Bangalore City Corporation, Railway Parallel Road, Nehrunagar, Bangalore, (for short 'the premises') owned by the respondent. He assailed the order of the Karnataka High Court in HRRP 1377 of 1993 dated May 26, 1998 in this appeal.

While the appellant was in possession of the premises and running a school, the respondent purchased the same in 1979. Thus the respondent became the landlord. The petition out of which this appeal arises was filed by the respondent in the Court of III Additional Judge, Small Causes Court at Bangalore seeking eviction of the appellant on the ground of bonafide personal requirement, under Section 21(1)(h) of the Karnataka Rent Control Act, 1961, (for short 'the Act'). The appellant denied the ground of personal requirement and contested the case.

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The learned Additional Judge, Small Causes Court on consideration of the evidence placed before it held that the bonafide need of the respondent was not established and dismissed the eviction petition on July 20, 1993. Dissatisfied with the said order, the respondent filed a revision before the High Court of Karnataka in HRRP No.1377/93. The High Court held that the bonafide need of the respondent-landlady was established and ordered eviction while allowing the revision on May 26, 1998. It is that order of the High Court which is under challenge in this appeal.

Mr. SN Bhat, the learned counsel for the appellant, contends that the ground on which the eviction is sought by the respondent is that she is suffering from mental disease (schizophrenia) is no ground in law and therefore the High Court ought not to have ordered eviction. The real question which needs to be looked into is whether the respondent-landlady bonafide requires the premises for her personal occupation. The question of the illness of the respondent due to which she is unable to live with her daughter-in-law can hardly be a relevant fact. On the question of bonafide personal requirement the High Court found that the respondent has established the need. In view of this finding we do not find any justifiable reason to interfere with the order under challenge.

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However, as the appellant is running a school in the

premises, it cannot be vacated in the middle of the academic year. We, therefore, consider it just and appropriate to grant time to the appellant to vacate and hand over possession of the premises in question to the respondent on or before 31st of May, 2002 subject to the appellant filing an usual undertaking within three weeks from today.

The appeal fails. It is accordingly dismissed, but, in the circumstances of the case, without costs.

.SP1

.....J.
[SYED SHAH MOHAMMED QUADRI]

New Delhi,
September 25, 2001.@@
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.....J.
[S.N. PHUKAN]