

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 2422 OF 2008

BASUDHA COKE (INDIA) PVT. LTD. ... Appellant(s)

Versus

TILAK RAJ TANDON ... Respondent(s)

WITH

CIVIL APPEAL No. 2423 of 2008 and 2424 of 2008

O R D E R

These appeals arise out of a common Order dated 13.03.2007 passed by the High Court of Jharkhand at Ranchi whereby Civil Second Appeals No. 12, 13 and 14 of 2007 have been allowed and judgments and orders passed by the courts below decreeing three different suits for eviction filed by the appellant-company set-aside and the suits dismissed.

It is in our opinion unnecessary to re-capitulate the entire factual matrix in which the appeals have come to be filed. That is because the High Court has elaborately set out the back ground in which the three suits for eviction came to be filed against the respondents herein. All that, we need mention is that

the suits were founded on bonafide requirement of the plaintiff-company which the Trial Court and so also the First Appellate Court held to have been sufficiently proved.

Aggrieved by the judgments and decrees passed against them, the defendants-respondents appealed to the High Court in Civil Second Appeals No. 12, 13 and 14 of 2007 which appeals, as noticed earlier have been allowed by the High Court, the judgment and decrees set-aside and the suits dismissed. The High Court has taken the view that the plaintiff-company had not proved its bonafide requirement for the shops in question. In support of that finding, the High Court has relied upon several circumstances which appear to us to be not only relevant but to an extent critical. For instance, the High Court has held that the appellant-company had along with three disputed shops acquired ownership over 12 flats situate on the upper floor of the building. The High Court found that two out of the said flats which were vacant had been sold by the company while the remaining 10 flats remain available to it. The High Court took the view if the plaintiff-company truly needed the shops in question for carrying on its business, there was no reason why the said business could not be carried on from the accommodation available

on the first floor of the building in question. The High Court also noticed the fact that certain other suits filed by the plaintiff-company against the tenants had been settled and the property in their occupation sold.

On behalf of the appellant-company, it was strenuously argued that the High Court had fallen in error in interfering with the concurrent findings of fact recorded by the courts below. It was submitted that whether or not the personal requirement by the plaintiff-company stood proved was essentially a question of fact or at least a mixed question of law and fact with which the High Court ought not have interfered in exercise of its powers as a second Appellate Court under Section 100 of the CPC.

On behalf of the respondent, it was submitted that there was no error much less any perversity in the view taken by the High Court especially when the High Court has given valid reasons for interfering with the concurrent findings of fact recorded by the courts below. The High Court has, according to the learned counsel for the respondents, pointed out serious omissions in the judgment delivered by the Trial Court and that delivered by the First Appellant Court who had ignored certain vital pieces of evidence that clearly

established that the plaintiff's need was only a mere belief with no real basis whatsoever.

We have in the light of the submissions made at the Bar carefully gone through the judgment delivered by the First Appellate Court and that delivered by the High Court. We are of the view that the High Court had indeed taken pains to critically examine the question of personal requirement of the alleged appellant-company and rightly concluded that the said requirement had not been proved. We do not, therefore, consider this to be a fit case for our interference under Article 136 of the Constitution of India. That is especially so when learned counsel for the respondents were agreeable to enhancing the amount of rent payable for the shops in question. It was submitted by learned counsel on instructions that the rent of Rs. 657/- in case of one shop and Rs. 700/- in the case of other shops was fixed some time in the year 1982 when the tenancy started. No enhancement of rent had however taken place over the past 34 years. That circumstance by itself, called for a reasonable increase in the rate of rent payable for the disputed shops.

Having heard learned counsel for the parties regarding the extent of enhancement of rent for the shops, we are of the view that the respondents could be

directed to pay enhanced rent of Rs. 7,000/- p.m. w.e.f. 01.04.2007 up to 31.03.2016 and @ Rs. 10,000/- p.m. w.e.f. 01.04.2016 onwards. Learned counsel for the respondent submitted that given three months' time, the amount of arrears shall be either deposited before the Trial Court by them or remitted directly to the appellant-company. In the circumstance, we dispose of these appeals with the direction that while the suits filed by the plaintiff-company for eviction of the respondents shall stand dismissed, the rate of rent in respect of each one of the shops shall stand enhanced to Rs. 7,000/- p.m. w.e.f. 01.04.2007 and Rs. 10,000/- p.m. w.e.f. 01.04.2016 onwards. Arrears of rent up to 31.03.2016 shall be paid by the respondents within three months from today. Current/future rent shall however be paid by the 10th of every succeeding calendar month. Needless to say that any amount already paid by the respondents towards rent for the period commencing 01.04.2007 onwards shall stand duly adjusted in the arrears. We direct that the respondents shall file an undertaking to the effect that they shall pay the arrears of rent and future rent as indicated above before this Court within four weeks. In case the undertakings are not filed as indicated above or after the undertaking are filed, the deposit of arrears not

made within the time allowed, the respondents shall be bound to deliver the vacant possession of the premises to the appellant-company pursuant to the impugned judgments and decrees passed by the courts below. The order passed by the High Court shall in that eventuality be deemed to have been set-a-aside and the judgments and decrees passed by the courts below affirmed. No costs.

.....CJI.
(T.S.THAKUR)

.....J.
(UDAY UMESH LALIT)

New Delhi,
Dated: 19th April, 2016.

ITEM NO.8

COURT NO.1

SECTION XVII

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(s). 2422/2008

BASUDHA COKE (INDIA) PVT. LTD.

Appellant(s)

VERSUS

TILAK RAJ TANDON
(with office report)

Respondent(s)

WITH

C.A. No. 2423/2008
Interim Relief and Office Report)

C.A. No. 2424/2008
Interim Relief and Office Report)

Date : 19/04/2016 These appeals were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Appellant(s) Mr. Vijay Hansaria, Sr. Adv.
 Mr. Anil Kumar Sangal, Adv.
 Mr. Siddharth Sangal, Adv.

For Respondent(s) Mr. P.Bhatt, Sr. Adv.
 Mr. S. K. Sinha, Adv.
 Ms. Seema Kashyap, Adv.

Mr. S.K.Sinha, Adv.
Mr. S. K. Verma, Adv.

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

Civil Appeal No. 2423 of 2008:

Respondent has passed away. The appellant has filed an application for substitution of the Lrs left behind by him. Mr. S.K.Verma, Adv. accepts notice on behalf of the Lrs and submits that he has no objection to the proposed Lrs being brought on

record in place of the deceased-respondent. We accordingly allow this application and direct substitution of the Lrs mentioned in the application. Mr. S.K.Verma, Adv. shall file his vakalatnama on behalf of the Lrs mentioned above.

Civil Appeals No. 2422, 2423 and 2424 of 2008:

The appeals are disposed of in terms of the signed order.

(Shashi Sareen)

AR-cum-PS

(Signed order is placed on the file)

(Veena Khera)

Court Master