

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. 123 OF 2002

P.M. KAMALA DEVI (D) BY LRS. & ORS.

Appellant (s)

VERSUS

MEENAMBAL & ORS.

Respondent(s)

(With application for exemption from filing official translation of
the additional documents and office report)

Date: 27/09/2006 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE P.P. NAOLEKAR

HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Appellant(s)

Mr. M.K.S. Menon,Adv.

Mr. Vipin Nair,Adv.

Mr. P.B. Suresh,Adv.

for M/s. Temple Law Firm,Advs.

For Respondent(s)

Mr. B.V. Deepak,Adv.

for M/s. T.T.K. Deepak & Co.,Advs.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

The appeal is allowed.

No costs.

[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. 123 OF 2002

P.M. Kamala Devi (D) by Lrs. and Ors.

...Appellant(s)

Versus

Meenambal and Ors.

...Respondent(s)

O R D E R

Heard learned counsel for the parties.

The trial court dismissed suit for eviction both on the grounds of default as well as sub-letting. When the matter was taken in appeal, appellate court allowed the same, reversed

finding of the trial court on the question of sub-letting and decreed the suit on that ground alone. Against the said order when the matter was taken to the High Court in revision filed under Section 20 of the Kerala Building (Lease and Rent Control) Act, 1965, [for short, 'the Act'], the order of the lower appellate court has been reversed as in the opinion of the High Court there were admissions by P.Ws 1 and 2. It further appears from the High Court judgment that apart from the so called admissions, it has reappreciated the entire evidence and thereupon recorded a finding which is contrary to the same recorded by the court of appeal.

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We have perused the judgments of the lower appellate court, the High Court and the evidence of P.Ws 1 and 2. In our view, there is no admission whatsoever in the evidence of either P.Ws 1 or 2. That apart, view taken by the appellate court is not only reasonable and possible view, but that seems to be the correct view upon appreciation of evidence. It is well settled that in revision under Section 20 of the Act, the High Court should not ordinarily interfere with the finding of fact recorded on any material point unless it is found to be perverse, which would obviously mean that the same was based upon no evidence,

misconstruction, misreading or non-consideration of material evidence or the view taken by the Court of fact was neither reasonable nor possible one. In view of the foregoing discussion as the finding of fact recorded by the lower appellate court was not suffering with any of the aforementioned infirmities, the High Court was not be justified in reversing the same and that also by committing error of record in observing that there were admissions in the evidence of P.Ws 1 and 2 and reappreciating the evidence only with a view to find out whether the other view was possible or not.

Accordingly, the appeal is allowed, impugned order rendered by the High Court is set aside and the same passed by the lower appellate court is restored. The respondents are granted time till 30th June, 2007, to vacate the premises in question upon filing usual undertaking within four weeks from today.

No costs.

J.

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[B.N. AGRAWAL]

J.

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[P.P. NAOLEKAR]

New Delhi,

.....J.
[LOKESHWAR SINGH PANTA]

September 27, 2006.