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N. PRABHAKAR RAO

v.

J.R. RAMESH KUMAR @ RAMESHJI

NOVEMBER 2, 2001

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[SYED SHAH MOHAMMED QUADRI AND S.N. PHUKAN, JJ.]

Rent and Eviction

Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960:

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Ss. 22 and 10(3)(a)—Revisional power of High Court—Residential as well as non-residential premises—Landlord seeking eviction of tenant on ground of bona fide requirement—Rent Controller dismissing eviction petition recording a finding that requirement of the provision were not satisfied—Appeal of landlord dismissed by appellate authority—But High Court in revision allowing the petition of landlord—Held, having regard to revisional powers of High Court unless in the opinion of High Court, for reasons to be recorded, the order assailed before it suffers from an illegality, irregularity or impropriety, the same cannot be interfered with, more so when it is based on concurrent findings of fact—High Court did not indicate any reasons for not sustaining the order of appellate authority—Matter remanded to High Court for decision afresh—

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Revision.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7457 of 2001.

From the Judgement and Order dated 5.9.2000 of the Andhra Pradesh High Court in C.R.P. No. 5093 of 1996.

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P.S. Narasimha, P. Sridhar and V.G. Pragasam for the Appellant.

M.N Rao, S. Sadasiva Reddy and Mrs. S. Usha Reddy for the Respondent.

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The following Order of the Court was delivered :

Leave is granted.

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This appeal is directed against the order of the High Court of Andhra Pradesh at Hyderabad in C.R.P. No. 5093 of 1996 dated September 5, 2000, allowing the revision filed by the respondent-landlord and setting aside the

order of the appellate authority in R.A. No. 97 of 1991 dated July 12, 1996 confirming the order of the Principal Rent Controller, Secunderabad in R.C. No. 355 of 1980 dated December 31, 1990.

The appellant is the tenant and the respondent is the landlord of the building bearing Municipal Assessment No. 7-3-181 to 183 and 209 situated at Ghasmandi, Secunderabad (for short, 'the building'). The appellant obtained the building which comprises of both residential as well as non-residential portions, from the respondent on the monthly rent of Rs. 160 under the agreement of tenancy dated February 5, 1974. The respondent filed eviction petition R.C. No. 355 of 1980 praying for eviction of the appellant from the building on as many as three grounds; the only ground with which we are concerned here is *bona fide* requirement of the respondent under Section 10(3)(a) of Andhra Pradesh Buildings (Lease, Rent & Eviction) Control Act, 1960 (for short, 'the Act'). The appellant contested the petition denying that the need of the respondent was *bona fide*. The learned Rent Controller, on considering the evidence placed before him, came to the conclusion that the requirements of the said provision were not satisfied and dismissed the eviction petition. On appeal the learned Chief Judge, City Small Causes Court – Appellate Authority under the Act – on scrutiny of the evidence including the additional evidence, allowed to be adduced by the parties, dismissed the appeal - R.A. No. 97 of 1991 - on July 12, 1996. The respondent carried the matter in revision before the High Court in C.R.P. No. 5093 of 1996 which was allowed by the impugned order. That is how this appeal came to be filed.

Mr. P. Narasimha, the learned counsel for the appellant, contends that both with regard to residential portion as well as non-residential portion of the building, the trial court recorded specific finding that the alleged need of the respondent was not *bona fide*, which was upheld by the appellate authority; the High Court without examining the correctness of those findings of fact, recorded its own finding upholding the claim of the respondent.

Mr. M.N. Rao, the learned senior counsel appearing for the respondent, has endeavoured to sustain the order of the High Court on the ground that by a reasoned order the High Court came to the conclusion that the need of the respondent was *bona fide* and ordered eviction and therefore the findings of the appellate authority as well as the trial court will be deemed to have been dealt with and set aside.

We have perused the order of the High Court under challenge as well

- A as the order of the appellate authority and the trial court. We find considerable force in the contention of Mr. Narasimha. Having regard to the revisional powers of the High Court under Section 22 of the Act unless in the opinion of the High Court, for reasons to be recorded, the order assailed before it suffers from an illegality, irregularity or impropriety, the same cannot be interfered with, more so when it is based on concurrent findings of fact. In the instant case, the High Court did not indicate any reasons for not sustaining the order of the appellate authority. We are, therefore, unable to uphold the impugned order of the High Court. Inasmuch as we are of the view that remanding the case to the High Court for fresh disposal, in accordance with law, will meet the ends of justice, we refrain from making any observation on the merits of the case. We set aside the impugned order of the High Court and restore C.R.P. No. 5093 of 1996 to the file of the High Court for deciding the same in accordance with law untrammelled by any observation made in this order.
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The appeal is allowed accordingly. We make no order as to costs of this appeal.

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R.P.

Appeal allowed.