

SUPREME COURT OF INDIA

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A.P Misra, J. N. Santosh Hegde, J.

Ramjidas v. Rambabu

Civil Appeal No. 651 of 1997

08.02.2000

Tenancy and Rent Act - M.P Accommodation Control Act S. 12(1)(f)

Bona fide need - Act of reletting the accommodation after getting it vacated for personal need in the year 1980 cannot defeat the bona fide need of the landlord for the year 1987 - Court rightly considered the fresh need which was after the passage of seven long years between the last order and the present application made by the landlord - By this passage of time the need has changed, his minor son has become major for whose need there was specific pleading and evidence was also led.

Order

1. Heard learned counsel for the parties.

2. The High Court by its order dated 6-9-1996 in Second Appeal No. 206 of 1995 set aside the findings recorded by both the courts below in which they held that the need of the landlord was not bona fide under **Section 12(1)(f) of the M.P Accommodation Control Act, 1961**. The main submission by the learned Senior Counsel, Mr Sanghi on behalf of the appellants is that the High Court should not have interfered with the concurrent findings of facts recorded by both the courts below. He has taken us to the findings recorded both by the trial court and also by the first appellate court. Having perused the said two judgments, we find the main consideration by both the courts below were, the conduct of the respondent landlord between the years 1975 to 1980. In 1975 he purchased this property and then made an application for the eviction of the then tenant, on the ground of his bona fide need of doing his business in the disputed shop. The Court ultimately decreed it followed by the tenant vacating the accommodation. In spite of this the respondent did not start any business in the said shop. On the contrary he inducted in new tenants which was only for the enhancement of its rent and not for starting any business.

3. We find the courts below have scrutinised the evidence but solely based their decision on the past conduct of the landlord without taking into consideration the present need. The appellate court recorded the following findings:

"It is clear from evidence of appellant himself that this tenanted suit portion was given on rent to nephew of the appellant Murarilal and on his vacating it, it was given to the

respondent and according to statement of appellant himself, appellant had not done said business at that time ... also clear from the evidence that the appellant before giving shop on rent had given this shop earlier to Murarlal, Gaya Prasad and Navdurga people and on receiving advance increased the rent ... which is indicative of the fact that the appellant filed this suit with the objective of increasing rent as held by the subordinate court...."

4. The said reference is of the happenings prior to 1980.

5. The present respondent was inducted as tenant admittedly on 17-10-1980. This finding no doubt records the conduct of the landlord during the said period, i.e., between 1975-80. But we find there is no consideration about the need of the landlord in terms of the present application, which was moved in 1987. Learned Senior Counsel Mr Sanghi vehemently submits that consideration by the courts below of the past conduct is a relevant consideration. Even if past conduct could be said to be relevant consideration but that by itself is not sufficient to reject the claim of the landlord for a need he requested for after seven long years. Hence we feel that the High Court has rightly interfered with such findings recorded by both the courts below. Such finding is perverse. The High Court in second appeal framed a substantial question of law, which is recorded hereunder:

"Whether the ground of genuine requirement could be negatived for the reasoning that earlier when the shop was got vacated, it was relet out in the year 1980, whereas the present need of the suit shop is for the younger son of the plaintiffs named Vijay Kumar, who became major only in the year 1987?"

6. The High Court after examining the facts on this question found that the findings of the courts below of reletting the accommodation after getting it vacated for personal need in the year 1980 cannot defeat the bona fide need of the landlord for the year 1987.

7. The High Court rightly considered the fresh need which was after the passage of seven long years between the last order and the present application made by the landlord. By this passage of time the need has changed, his minor son has become major for whose need there was specific pleading and evidence was also led.

8. We find that the High Court has given due consideration and has given good reasons to interfere with the findings recorded by the courts below. In our considered view no error was committed by the High Court. Accordingly, we do not find any merit in this appeal. It is accordingly dismissed.

9. In view of request by the learned counsel for the appellant, looking to the background of this case, as the appellant tenant is in this accommodation since 1980, we feel that it would be appropriate to grant some reasonable time to the tenant to vacate this accommodation. Therefore, we grant him six months' time, that is to say, time up to 31-8-2000 to hand over vacant possession of the shop to the respondent landlord by or before that date subject to his filing the usual undertaking within four weeks from today, failing which this extension of time shall stand withdrawn.

10. The appeal is, accordingly, dismissed subject to the aforesaid extension of time to

vacate the shop. There shall be no order as to costs.

Equivalent citation : 2000(9) SCC 329