

(1997) 04 SC CK 0171
In the Supreme Court Of India
Case No : Slp (C) No. 6944 Of 1997

Bombay Tyres Int. Ltd. and Another	APPELLANT
Vs	
K.S. Prakash (Dead) by Lrs. and Others	RESPONDENT

Date of Decision : 04-04-1997

Acts Referred:

Citation : (1997) 6 SCC 487

Hon'ble Judges : K. S. Paripoornan, J;B. N. Kirpal, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

K.S. Paripoornan and; B.N. Kirpal, JJ.-The petitioners are the tenants. Their case is that they had obtained a lease dated 10-3-1978 from the landlord (respondent) for a period of 15 years with effect from 1-7-1976 and so they are entitled to be in exclusive possession till 30-6-1991 in terms of the lease deed. Before the expiry of the term the eviction petition was filed by the landlord in 1988 under the Rent Control Act, which is not maintainable. The High Court has held that the provisions of the Karnataka Rent Control Act, 1961 override the contractual tenancy and the eviction proceeding was laid "bona fide" for "own occupation". In holding that the Rent Act will prevail, the High Court felt bound by the decision of this Court in Shri Lakshmi Venkateshwara Enterprises (P) Ltd. v. Syeda Vajhiunnissa Begum.

2. We have heard the counsel. Our attention was invited to an earlier decision of this Court in V. Dhanapal Chettiar v. Yesodai Ammal. The plea was that the earlier Full Bench decision of the High Court in Sri Ramakrishna Theatres Ltd. v. General Investments and Commercial Corpn. Ltd., which is in accord with Dhanapal Chettiar case², is binding on the High Court and the decision under appeal holding that the earlier Full Bench decision of the Karnataka High Court stands overruled by the decision of this Court reported in Shri Lakshmi Venkateshwara case¹ is incorrect. Be that as it may, we find from the records produced before us that the tenancy has been terminated by service of notices,

as early as 1984, as could be seen from pp. 184 and 193 of the paper-book. Even according to the tenant, he has got a right to be in possession (only) till 30-6-1991 but in this case the eviction was ordered only on 28-9-1995. The fact that the contractual tenancy stood terminated, will alter the entire picture and perspective in this case.

3. On the facts of this case we do not propose to decide the larger question as to whether the decision of the Karnataka High Court in Shri Ramakrishna Theatre case is still good law, or stands overruled by the later decision of this Court in Shri Lakshmi Venkateshwara case¹. We leave the larger question of law open, to be decided in an appropriate case on a future occasion. Since the tenancy in this case stood terminated and the findings regarding the bona fide need of the landlord and other aspects are in favour of the landlord, with which we concur, we are of the view, that the special leave petition is without merit.

4. The special leave petition is dismissed.