
(1954) 03 AP CK 0006

In the Andhra Pradesh High Court

Case No : Writs No"s. 3 and 4/A5/1 of 1953-54

C.M. Narayan Swamy

APPELLANT

Vs

Girdharilal and others

RESPONDENT

Date of Decision : 23-03-1954

Acts Referred:

Constitution of India, 1950 — Article 254

Citation : (1954) 03 AP CK 0006

Hon'ble Judges : Srinivasachari, J;Mohd. Ahmed Ansari, J;Manohar Pershad, J

Bench : Full Bench

Advocate : J.V. Narsingh Rao, for the Appellant; Gopal Rao Ekbote and Bheemsena Chari, for the Respondent

Judgement

1. These two cases have been referred to us by a Division Bench having regard to the importance of the legal question involved in them. The question is whether the Rent Control Order, 1353F which had been framed under R. 72(B), Hyderabad Defence Rules has become void under Art. 254, Constitution of India after the extension of the Transfer of Property Act to Part B States.

2. We do not wish now to go into a detailed discussion of this Constitutional issue, as a Full Bench of this Court consisting of five judges in the case of -- "Pannalal Lahoti v. State of Hyderabad", AIR 1954 Hyd 129 (FB) (A), by a majority has held that the Defence of Hyderabad Regulation and the rules framed thereunder were only war emergency legislations and as such have ceased to be operative after the termination of the emergency for which they were promulgated.

The Rent Control Order was passed under R. 72(B) of Rules framed under the Defence of Hyderabad Regulation and as the regulation and the rules framed thereunder have been held to be inoperative, the Rent Control Order in the result would also lapse.

3. The applicant before us is a tenant and has filed two Writ petitions. One is

against an order of eviction and the other is to quash the order of the Rent Controller refusing to fix a fair rent for the shop that he had taken up on rent. The eviction order was passed by the appellate authority in exercise of the jurisdiction vested in him under the Rent Control Order.

In the light of the Full Bench Case such an order of the appellate authority under the Rent Control Order should be regarded as being without jurisdiction, inasmuch as the order which vested him with this jurisdiction had ceased to be operative on the day the appeal was filed and also on the day he allowed the appeal directing the applicant before us to be evicted.

In the result the writ petition against this order is allowed and the order of the appellate authority directing eviction cannot stand and is therefore set aside.

As regards the application against the order refusing to fix a fair rent, the same results follow. The Rent Controller and the appellate authority were not justified in adjudicating on such petition for fixation of the rent inasmuch as the Rent Controller and the appellate authority were authorised to deal with such questions under the Rent Control Order and they had no jurisdiction to deal with the question in view of the lapsing of the Rent Control Order.

In the result, this writ petition is also allowed and the order of the appellate authority and the Rent Controller are both set aside, and the petition for fixing fair rent is rejected. This judgment shall govern both the writ applications. We do not wish to pass any order as to costs of this Court.