

(2001) 11 KAR CK 0058

In the Karnataka High Court

Case No : House Rent Revision Petition No. 1677 of 1997

Moulasab

APPELLANT

Vs

Varadaraj Ningappa Guttal deceased by LRs. and Others

RESPONDENT

Date of Decision : 28-11-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115

Citation : (2002) 1 KCCR 232

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : K. Giridhar, for the Appellant; G.S. Visweshwara, for Respondent 1A to G1-8K and 2 and 4, for the Respondent

Judgement

V. Gopala Gowda, J.—This revision petition u/s 115 CPC is filed by the tenant against the order dated 18.11.1997 passed by the District Court dismissing the Rent Revision Petition No. 77 of 1990 and confirming the eviction order passed by the Munsiff Court, Gadag in H.R.C. No. 3 of 1979.

2. It is most unfortunate that even after two decades and more this matter has to be remanded back for the second time only for a limited purpose for two reasons. In the first place, during the pendency of this revision petition the Petitioner has filed an application along with certain documents in connection with subsequent events. Eventhough the application is strongly opposed by the learned Counsel for the Respondents, the same has to be allowed to afford an opportunity to the Petitioner to establish his case by adducing necessary evidence. Accordingly, the said application is allowed.

3. In the second place, even otherwise also both the Courts below have failed to consider feasibility of partial eviction despite direction issued by this Court at an earlier point of time in Civil Revision Petition No. 921 of 1985. Hence, to consider partial eviction also, the matter has to be remitted back for limited purpose.

4. The eviction is ordered under Clauses (a) and (h) of Section 21(1) of the

Karnataka Rent Control Act. There is no challenge to the order passed u/s 21(1) (a) of the Act. Hence, the same is not disturbed. Further, the finding regarding bona fide requirement of the landlords under Clause (h) is also kept in tact and the same is not disturbed.

5. Accordingly, the revision petition is partly allowed quashing the impugned order only in so far as it relates to eviction ordered u/s 21(1)(h) of the Act and the matter is remitted back to the trial Court to give opportunity to the parties to adduce evidence on the additional documents with regard to the subsequent rent only with regard to feasibility of partial eviction u/s 21(1)(h) of the Act.

6. Having regard to the passage of time consumed by this case for more than 21 years without reaching finality, the trial Court is directed to conclude the matter within a period ten weeks from the date of receipt of copy of this order and the records.

7. Office is directed to send back the records to the trial Court immediately.