
(1986) 07 MP CK 0059

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 1448 of 1986

Pannalal Shrivastava and others

APPELLANT

Vs

Dinesh Chand Mishra and another

RESPONDENT

Date of Decision : 08-07-1986

Acts Referred:

Madhya Pradesh Accommodation Control (Amendment) Act, 1985 — Section 9

Citation : (1986) ILR (MP) 367 : (1986) JLJ 580 : (1986) MPLJ 680

Hon'ble Judges : J.S. Verma, C.J.; A.G. Qureshi, J

Bench : Division Bench

Advocate : M.M. Sapre with A.M. Sapre, for the Appellant; A.K. Jain for Respondent No. 1 and M.V. Tamaskar, Addl. A.G. and N.K. Patel as Amicus Curiae, for the Respondent

Judgement

J.S. Verma, C.J.

The short point involved for decision in this petition is the construction and effect of section 9 of the M.P. Accommodation Control (Amendment) Act (No. 7 of 1985) which reads as under:-

9. Transfer of pending application to Civil Court. - An application filed by the landlord, other than that defined in section 23-J to evict the tenant exclusively on the ground of "bona fide" requirement of accommodation u/s 23-A of the Principal Act before 16th January, 1985 and pending on such date before the Rent Controlling Authority shall stand transferred to a Civil Court of competent jurisdiction and such Court shall proceed to dispose of the same in accordance with the provisions of Chapter III as if it were a plaint.

As a result of the above Amendment Act, a number of applications for obtaining order of eviction of a tenant on the ground of bona fide need of the landlord stood transferred for trial to the competent Civil Court where the landlord does not fall in the category defined in section 23-J of the M.P. Accommodation Control Act, as amended by the M.P. Act No. 7 of 1985. The question which arises for

decision is about the procedure of trial of those suits in the Civil Court after that transfer. In one such suit, the impugned order dated 16-4-1986 (Annexure-B) has been passed by the District Judge, Jabalpur, taking the view that the Civil Court shall try the proceeding as a regular civil suit and that the trial shall be de novo ignoring the evidence already recorded in the proceedings before the Rent Controlling Authority. The question is whether the view so taken by the learned District Judge is correct.

The above quoted section 9 clearly says that such an application pending before the Rent Controlling Authority "shall stand transferred to a Civil Court of competent jurisdiction and such court shall proceed to dispose of the same in accordance with the provisions of Chapter III as if it were a plaint." It is clear that on transfer of the proceeding to a Civil Court of competent jurisdiction, the application is deemed to be a plaint and the proceeding in the Civil Court based on it is deemed to be regular civil suit. It is, therefore, obvious that all the incidents of a regular civil suit would apply to its trial in the Civil Court from that stage. If that be so, there is no reason why the Civil Court cannot permit the parties to adduce further evidence before it even if evidence has been fully recorded before the Rent Controlling Authority. In cases where no evidence was recorded before the Rent Controlling Authority, it is obvious that the entire evidence has to be recorded in the Civil Court and no such difficulty would arise therein. The real controversy is whether the evidence already recorded before the Rent Controlling Authority is to be treated as part of the evidence in the suit, or, in other words, a part of the record of the civil suit. In our opinion, there is no reason why that part of the record of the proceedings before the Rent Controlling Authority should be ignored or excluded from consideration as a part of the record of the civil suit. In this view of the matter, it would not be correct to hold that the evidence recorded before the Rent Controlling Authority must be excluded from consideration or that trial of the suit should be invariably de novo even when the parties are satisfied with the evidence already recorded and do not wish to adduce any further evidence in the Civil Court. We may add that the nature of order required to be made by the Court would depend on the facts of each case, the stage at which the proceedings stood transferred to the Civil Court and the prayer made by the parties in the Civil Court in this behalf. The Civil Court in all such cases will decide the matter on the basis of the procedure applicable to the trial of a regular civil suit before it treating the entire record of the proceedings before the Rent Controlling Authority as a part of the record in the civil suit.

In view of the above construction made by us of section 9 of the Madhya Pradesh Accommodation Control (Amendment) Act, 1985 (Act No. 7 of 1985), we direct that the impugned order passed by the learned District Judge shall be construed accordingly. The petition is disposed of accordingly. No costs.