

Krishnaraj Jamnadas Modi Vs. Colaba Land Cooperative Society Ltd. and anr.

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Court : Supreme Court of India

Decided On : Aug-07-1980

Reported in : AIR1981SC13; (1981)1SCC444

Judge : O. Chinnappa Reddy; R.S. Pathak and; v.R. Krishna Iyer, JJ.

Acts : Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 - Sections 13

Appeal No. : Civil Appeal No. 1050(N) of 1979

Appellant : Krishnaraj Jamnadas Modi

Respondent : Colaba Land Cooperative Society Ltd. and anr.

Judgement :

V.R. Krishna Iyer, J.

1. In this appeal, by special leave, the subject matter turns on the construction of Section 13(i)(g) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947. The appellant is the tenant and the respondents are (i) a Building Co-operative Society and (ii) one of the allottee-members to whom a flat has been allotted by lots. The ground for eviction put forward by the landlord society was the requirement of the beneficiary respondent No. 2. Although the trial court dismissed the eviction suit, the Appellate Bench of the same Court allowed eviction. The decree for eviction was affirmed by the High Court but appreciating the acute scarcity of accommodation, the High Court granted 2½ years to the appellant-tenant to vacate the premises. This period expires by the end of June, 1981.

2. We do not see any need to set out the facts of the case at length. We do not agree with the appellant's contention that Section 13(i)(g) does not apply. Indeed, without further ado, we agree with the High Court and confirm the direction for eviction.

3. Shri F.S. Nariman, appearing for the appellant, made a plea *ex misericordia* for another period of 2 years for surrender of possession because of the notorious difficulty in getting alternative accommodation in Bombay. We have heard both sides on this aspect of the matter. We consider that in the circumstances of the case, the appellant may be given time for surrender of possession up to 31-1-1982 on condition that he will pay rent @ Rs. 500/- per month from July 1981 to January 1982 and will further give an undertaking, within one week from today, containing the following three clauses:

(1) That the appellant will voluntarily hand over vacant and peaceful possession of the suit premises to the respondent without need for execution proceedings;

(2) That the appellant will not induct anybody else into occupation of any part of the premises or otherwise assign or part with possession; and

(3) That the petitioner will continue to pay regularly a sum equal to the rent that has been fixed between the parties, month by month, before the 10th of every month, by way of damages for use and occupation but, at the rate of Rs. 500/- from July, 1981.

If the rent is not paid in time or any of the conditions is not fulfilled or the undertaking is not put in within time, instantaneous eviction will be directed. We direct the appellant to pay to the respondent costs quantified at Rs. 2,000/-.

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