

Supreme Court of India

Mr.Bhaskar vs J. Venkatarama Naidu,Rep. By His ... on 10 September, 1996

Author: K Ramaswamy

Bench: Ramaswamy, K.

PETITIONER:

MR. BHASKAR

Vs.

RESPONDENT:

J. VENKATARAMA NAIDU,REP. BY HIS POWER OF ATTORNEYHOLDER A.

DATE OF JUDGMENT: 10/09/1996

BENCH:

RAMASWAMY, K.

BENCH:

RAMASWAMY, K.

FAIZAN UDDIN (J)

G.B. PATTANAIK (J)

ACT:

HEADNOTE:

JUDGMENT:

O R D E R Leave granted.

We have heard learned counsel on both sides. This appeal by special leave arises from the order of the High Court of Andhra Pradesh made on July 9, 1996 in CRP No.4290/95. The matter arises under Section 10(2) (1) of the A.P. Buildings (Lease, Rent. and Eviction) Control Act, 1960. The principal ground for eviction ordered by all the three courts below is that the appellant has committed willful default in the payment of the rent from the month of June 1990 till October 31, 1990.

The contention of Shri Subba Rao, learned counsel for the appellant, is that the respondent landlord was staying in Hyderabad and the power of attorney holder is his brother-in-law-cum-maternal uncle and that whenever he was coming to Madanpalle, he was paying the rents and, therefore, there is a contract to the contrary. We find no substance in the contention. Though parties are related, nonetheless when the appellant is staying in the premises as tenant, he has got an obligation to pay the rent regularly. If he does not do so, he commits willful default. If he finds that the

landlord is evading the payment of rent, procedure has been prescribed under Section 8 of the Act to issue notice to the landlord to name the bank and if he does not name the bank, the tenant has to file an application before the Rent Controller for permission to deposit the rents The appellant did not avail of that remedy. The omission to avail of the procedure under Section 11 does not disentitle the landlord to seek eviction for willful default.

The appeal is accordingly dismissed. However, three months time from today is granted to the appellant to vacate the premises on his giving an usual undertaking within four weeks from today. No costs.