

Supreme Court of India

Mr. P. Sriramamurthy vs Mrs. Vasantha Raman on 7 February, 1997

Bench: K. Ramaswamy, S. Saghir Ahmad

PETITIONER:

MR. P. SRIRAMAMURTHY

Vs.

RESPONDENT:

MRS. VASANTHA RAMAN

DATE OF JUDGMENT: 07/02/1997

BENCH:

K. RAMASWAMY, S. SAGHIR AHMAD

ACT:

HEADNOTE:

JUDGMENT:

**O R D E R** This appeal by special leave arises from the judgment of the Madras High Court, made on 6.1.1995 in C.R.P. No.404 of 1993.

the appellant is the tenant and the respondent is the landlady. Admittedly, a lease for 11 months was executed on 18.2.1998 at a rent in the sum of Rs.2,800/- per month. Notice was given on June 13,1998 on the ground that the appellant had committed wilful default in the payment of the rent for three months. Reply thereto was given on June 20,1998 denying the allegations. By the time, the petition came to be filed by the respondent, the default came to be for six months. As a consequence, O.A No.2709/88 was filed for eviction of the respondent under sections 10(2) (i) and 10(ii) (b) of Tamil Nadu Building Lease and Rent Control Act, 1960. The Rent Controller ordered eviction on the ground of wilful default and also for using the premises for purpose other than for which it was let out. On the appeal, it was reversed. But in the revision. the High Court held that the appellant has committed wilful default in the payment of the rent. Thus, it confirmed the order of eviction passed by the Rent Controller.

The question is : whether the appellant has committed wilful default of payment? In the counter affidavit filed in this Court, it is specifically stated that lease for 11 months was granted with an intention that after the retirement of the respondents husband they could come back from the United States of America and settled down permanently in Madras the demised premises. It is also

stated in paragraph 12 of the Counter-affidavit that wife and the husband sustained injuries in a car accident and due to the severe back pain, particularly during winter season, they had decided to come back. In fact, her husband retired from service on April 15, 1995. When the respondents husband retired from service, they decided to permanently come back and settle down in Madras. Thus it is obvious that they needed their house for personal occupation. It is true that the need for personal occupation was not pleaded. It is settled law that for moulding the relief, subsequent events can be taken note of. Under those circumstances, the relief of eviction could be granted on the ground of personal occupation. The amount of Rs.24,000/- deposited by the appellant shall be adjusted towards the arrears of the rent. If the arrears to be paid, time is given to the appellant to pay the same. Six months time from today is granted to the appellant to deliver the vacant possession of the premises on filing usual undertaking within a period of four weeks from today. The respondent is also directed to file an affidavit within a period of six weeks from today that after their coming back from the States, they shall neither let out the building to the third party nor induct any party and shall permanently stay in the back for the United States of America within a period of ten years from today. In the event of their leaving for the United States within the said period the tenant would be at liberty to seek possession of the premises.

The appeal is disposed of accordingly. No costs