

Supreme Court of India

Sheikh Jehangir vs Smt. S. Kaushilyabai And Ors. on 27 March, 1987

Equivalent citations: JT 1987 (2) SC 101, 1987 Supp (1) SCC 630

Author: A Sen

Bench: A Sen, V B Eradi

JUDGMENT A.P. Sen, J.

1. In this case, after hearing learned Counsel for the parties, we are unable to sustain the Judgment of the High Court. The finding reached by the sub-court as to the bonafide requirement of the previous landlord who was the plaintiff under Section 10(iii)(c) of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 could not survive after the plaintiff had transferred his right, title and interest in the demised premises by executing a registered sale deed dated May 11, 1973 in favour of the present purchaser. The High Court treated this as a subsequent event necessitating a remand of the suit for a fresh disposal and the present purchaser on remand was impleaded as a party respondent. There is clear inhibition contained in Section 10(3)(iii) against institution of a suit by a purchaser on the ground of bonafide personal necessity for a period of 3 months from the date of purchase and therefore a suit could not be brought by the purchaser till the expiry of the said period calculated from the date of sale deed. After the suit was remanded, the only remedy to the plaintiff was to seek liberty to withdraw it. The purchaser was to institute a separate suit for his own personal requirement which he never did. In view of the decision of this Court in *Shahtilal Thakdrdas and Ors. v. Chimanlal Madanlal Telwala*, the Judgment and decree passed by the High Court as well as the courts below will stand vacated and the suit for eviction will stand dismissed. But the dismissal of the suit will not preclude the purchaser from bringing a fresh suit on the ground of his bonafide requirement. The appeal is accordingly allowed but with no order as to costs.