

Supreme Court of India

A.K. Veeraraghava Lyengar vs N.V. Prasad on 5 January, 1994

Equivalent citations: AIR 1994 SC 2357

Bench: S Mohan, M Mukherjee

JUDGMENT

1. The respondent-landlord filed an eviction petition against the appellant-tenant in relation to non-residential premises to run a jewellery shop. He found:

i) It is claimed on the footing that he had experience in running jewellery shop;

ii) He had the financial capacity to run such a business;

iii) He had made an application to the excise authorities who had called upon him to produce a ground plan of the premises in which the business is to be run.

No doubt that plan is yet to be produced. Therefore, the need is bona fide. However the trial court did not accept the case 'of the landlord and rejected the petition for eviction. On appeal the judgment of the trial court was reversed and an order was passed which is confirmed in revision by the High Court hence this appeal.

2. Before us Mr. ATM Sampath, learned Counsel for the appellant vehemently urged these two points. (1) The landlord has come only with an oblique motive because the appellant-tenant agreed to pay the enhanced rate of pagari; (2) In any event, inasmuch as one of the portions of the premises had fallen vacant during the stage of trial and admittedly the landlord had let out in favour of Krishan Das which is one of the grounds relied upon by the Rent Controller to hold against the landlord, that ground ought to have been dealt with by the appellant as well as the revision court.

3. We have given our careful consideration to the arguments. We are unable to agree with either of them. As regards the first ground there is not sufficient evidence against the other requirements of bona fide, namely the experience of landlord, his financial capacity and his readiness and willingness to start jewellery shop. This ground cannot validly be urged.

4. As regards the second, we find only a mention was made of the portion falling vacant before the court of appeal. From the order, we do not find that the ground was persisted with when we turn to the memorandum of revision wherein 22 grounds have been urged. There is not even a plea of this aspect. Therefore it is too late for the tenant to urge this ground before us nor can we allow the tenant to urge the same at this belated stage. Accordingly, we hold there is no merit in the appeal which is dismissed. No costs.