A R. VARADARAJAN

v.

THIRUMANGAI NAIDU AND ORS.

MAY 5, 1997

B [K. RAMASWAMY AND D.P. WADHWA, JJ.]

Constitution of India, 1950 :

Article 136—Appellant, by suppressing the facts, got notice issued—Notice withdrawn—Appeal dismissed with cost quantified at Rs. 5,000 payable by appellant to Supreme Court Legal Services Committee—Rent and Eviction.

C

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3640 of 1997.

D

From the Judgment and Order dated 5.1.96 of the Madras High Court in S.A. No. 1673 of 1982.

M.N. Padmanabhan, Puja Anand and Revathy Raghavan for the Appellant.

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Harish Salve and A. V. Rangam for the Respondents.

The following Order of the Court was delivered :

Leave granted. We have heard learned counsel on both sides.

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Notice on the limited question of compensation to the respondents in respect of the building in question, was issued on August 6, 1996, on the premise that the appellant himself was in possession of the building. In the counter-affidavit filed by the respondents, it is stated that the appellant has let out the building to one Jasmine Electricals on a monthly rent of Rs. 1000 and that they have been in possession and enjoyment of the premises. In the rejoinder, it is admitted by the appellant in paragraph 8 which reads as under :

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"It is true that I had let out to one Jasmine Electricals, but that is only from 1993 and not earlier. It is totally incorrect to state that

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I have been realising the rental income from the property since 1968." A

The admission thereby that he has let out the premises gets proved. One Mohd. Rafeeq filed O.S. No. 6/97 in the Court of the District Munsif of Cuddalore for injunction against the owner. Therein, he stated that he entered into an agreement of lease on March 11, 1987. Further fresh deed B was executed on April 30, 1990. He claimed injunction on the basis of the directions issued by this Court. Thus it could be seen that the appellant has suppressed these material facts before getting the notice issued. Notice is accordingly withdrawn.

The appeal is dismissed with costs quantified at Rs. 5,000 payable by C the appellant to the Supreme Court Legal Services Committee within 30 days from today. In case he does not pay the costs, the Supreme Court Legal Services Committee is at liberty to have this order executed as a decree.

D

R.P. Appeal dismissed.