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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 17th DAY OF APRIL 1998

BEFORE

THE HON'BLE MR. JUSTICE H. RANGAVITTALACHAR

H.R.R.P. NUMBER 563 OF 1998

Between:

Manohar s/o Ummaji Mandre,
Major, Occ: Tailoring,
Anand Tailors, r/o Station Road,
Gadag, Tq & Dist. Gadag.

Petitioner

(By Sri V.T. Rayareddy)

And:

1. Rachappa S/o Shivappa Challamarad,
Age: 71 years, Occ: Business.
2. Chandrashekharappa S/o
Shivappa Challamarad,
Age: 48, Occ: Business.

Both are R/o Shahpurpeth,
Gadag, Tq. & Dist. Gadag.

Respondents

H.R.R.P. filed U/s. 115 of C.P.C. against the order dated 10-2-1998 passed in R.R. No. 178/91 on the file of the II Addl. Dist. Judge, Dharwad, allowing the revision petition and modifying the order passed in H.R.C. No. 49/89, dated 5-9-1991, by the Prl. Munsiff, Gadag, allowing the petition filed U/s. 21 (1) (h) of K.R.C. Act.

This H.R.R.P. coming on for orders this day, the Court made the following:

O R D E R

O R D E R

Petitioners have filed the eviction petition against the respondent seeking eviction of the petition premises on the ground that "they required the premises for their personal use and occupation." This petition was allowed by the learned Munsiff. Aggrieved by the said order the tenant has filed a revision petition before the learned II Additional District and Sessions Judge, Dharwad. The learned District Judge while confirming the order of the trial Court in so far as his finding that the requirement of the landlord "is reasonable and bona-fide". However remanded the matter to the learned Munsiff on the ground that the learned Judge failed to apply his mind about the feasibility of partial eviction. This order is under challenge.

I agree with the reasons and findings of the learned District Judge, as the learned Munsiff was obliged under Section 21(1)(A) of the K.R.C. Act to apply his mind about the feasibility of partial eviction before passing the eviction order, that being not done by him the learned District Judge remanded the matter. No grounds. Petition rejected. The learned Munsiff is directed to dispose of the matter expeditiously.

Sd/-
JUDGE

Lr/
ovp