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M. BHASKAR

v.

J. VENKATARAMA NAIDU, REP. BY HIS POWER OF  
ATTORNEY HOLDER A. NARAYANASWAMY NAIDU

B

SEPTEMBER 10, 1996

[K. RAMASWAMY, FAIZAN UDDIN AND G.B. PATTANAİK, JJ.]

*A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 :*

C

*Sections 8, 10(2)(1) and 11—Wilful default in payment of rent—Eviction ordered by Courts below—Procedure prescribed for payment of rent when landlord evades receiving rent—Omission to avail of the procedure by the tenant does not disentitle the landlord to seek eviction for wilful default.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 12380 of  
1996.

From the Judgment and Order dated 9.7.96 of the Andhra Pradesh High Court in C.R.P. No. 4290 of 1995.

A. Subba Rao and A.D.N. Rao for the Appellant.

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L.N. Rao, V. Sridhar Reddy, G. Rama Krishan and S.U.K. Sagar for the Respondent.

The following Order of the Court was delivered :

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Leave granted.

We have heard learned counsel on both sides.

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This appeal by special leave arises from the order of the High Court of Andhra Pradesh made on July 9, 1996 in CRP No. 4290/95. The matter arises under Section 10(2)(i) of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960. The principal ground for eviction ordered by all the three courts below is that the appellant has committed wilful default in the payment of the rent from the month of June 1990 till October 31, 1990.

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The contention of Shri Subba Rao, learned counsel for the appellant,

is that the respondent-landlord was staying in Hyderabad and the power of attorney holder is his brother-in-law- cum-maternal uncle and that whenever he was coming to Madanpalle, he was paying the rents and, therefore, there is a contract to the contrary. We find no substance in the contention. Though parties are related, nonetheless when the appellant is staying in the premises as tenant, he has got an obligation to pay the rent regularly. If he does not do so, he commits wilful default. If he finds that the landlord is evading the payment of rent, procedure has been prescribed under Section 8 of the Act to issue notice to the landlord to name the bank and if he does not name the bank, the tenant has to file an application before the Rent Controller for permission to deposit the rent. The appellant did not avail of that remedy. The omission to avail of the procedure under Section 11 does not disentitle the landlord to seek eviction for wilful default.

The appeal is accordingly dismissed. However, three months' time from today is granted to the appellant to vacate the premises on his giving an usual undertaking with four weeks from today. No costs.

G.N.

Appeal dismissed.