
(1951) 07 CAL CK 0026
In the Calcutta High Court
Case No : Civil Rule No. 589 of 1951

Bidyapati Ghosh

APPELLANT

Vs

Raj Kumar Pal

RESPONDENT

Date of Decision : 09-07-1951

Acts Referred:

Citation : 58 CWN 361

Hon'ble Judges : Harries, C.J.; Das, J

Bench : Division Bench

Advocate : Jitendra Kumar Sen Gupta and Chandra Nath Mookerjee, for the Appellant; Arun Kumar Dutt and Narayan Ranjan Mukherjee, for the Respondent

Final Decision : Dismissed

Judgement

Harries, C.J.—This is a petition for revision of an order made by a learned Subordinate Judge directing arrears of rent to be deposited in respect of certain premises and the monthly rent to be paid month by month under the provisions of section 14(4) of the West Bengal Premises. Rent Control Act of 1950. The opposite party had brought suit for ejectment of the petitioner who, it was alleged, was a tenant of the ground floor of certain premises. There was a claim in the suit for a large sum as arrears of rent and this application was made for the deposit of the arrears and the monthly rent as it fell due.

2. The tenant's case was that the tenancy was not of the ground floor, but of the ground floor and the first floor and that the landlord had wrongly taken possession of the first floor. Therefore it was said that there was a total suspension of rent and that there was no rent due.

3. It is to be observed that the landlord had already filed a rent suit and this defence of suspension of rent was pleaded by the petitioner in that suit. Further the petitioner has filed a suit for recovery of possession of the first floor and it appears to me that it will be quite impossible to say that any arrears of rent were due or that any rent was due from month to month until this question as to

whether or not the tenant had been unlawfully dispossessed of the first floor had been decided. The learned Subordinate Judge thought that he could not go into that matter. But I cannot see how he could make an order unless he was satisfied that rent was due and owing from the petitioner. Such may or may not be the case. But if the Court is left in any doubt about it, it appears to me that no order should be made u/s 14(4) of the Rent Control Act. That merely allows the Court to make an order. The Court is not bound to make an order. This is a case in which it appears to me an order should not have been made Therefore I would allow this petition, set aside the order complained of and dismiss the application. The Rule is made absolute with costs.

4. We are told that the suit giving rise to these proceedings, the rent suit, and the suit to recover possession of the first floor filed by the tenant are all pending in the Court of this Subordinate Judge. It appears to us that all these suits should be heard together. As the points involved are common we direct the Subordinate Judge to place these three suits for hearing and to dispose of them with the utmost expedition. Let the counter-affidavit filed in Court today be kept on the record.

Das, J.

I agree.