
(1995) 11 SC CK 0093

In the Supreme Court Of India

Case No : Civil Appeal No. 1125 of 1979

Hari Slakharam Dhanavate (Dead) by Lrs.

APPELLANT

Vs

A.N. Patil Tukarane (Dead) by Lrs. and Another

RESPONDENT

Date of Decision : 14-11-1995

Acts Referred:

Bombay Tenancy and Agricultural Lands Act, 1948 — Section 25(1), 25(2)

Citation : (1995) 6 SCALE 371 : (1995) 4 SCC 616 Supp : (1995) 5 SCR 232 Supp

Hon'ble Judges : S. C. Sen, J; M. M. Punchhi, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Rajesh, J.—The narrow point before the High Court as also before the Revenue Authorities was whether the appellant-tenant was in arrears of rent beyond 3 years and could action be taken u/s 25(1) or 25(2) of the Bombay Tenancy & Agricultural Lands Act, 1948 ?

2. The distinction between the two provisions is apparent. Section 25(1) enables a Mamlatdar to grant relief against termination of tenancy for non-payment of rent by facilitating payment of rent on call to the tenant to pay it directly to the lord or in court with costs of the proceedings within 15 days from the date of the order, and on failure of which to suffer an ejectment. In contrast, Section 25(2) carves out an exception that if the tenant is in arrears on his failure to pay rent for any three years, the landlord has to give an intimation to that effect to the tenant within a period of 3 months of each default, and then ejectment must follow as a consequence and the remedial provision u/s 25(1) cannot come to the rescue of the tenant. The finding recorded by the High Court is that the instant was a case covered u/s 25(2) and that the Mamlatdar could not proceed u/s 25(1) permitting the tenant to save the tenancy on payment of arrears of rent within 15 days of the order. The High Courts given adequate reasons to come to that view. We see no justification to alter the same.

3. The appeal, therefore, fails and is hereby dismissed. There shall be no order as to costs.