

(1953) 01 CAL CK 0009
In the Calcutta High Court
Case No : Civil Rule No. 2399 of 1952

Krishna Chandra Bose

APPELLANT

Vs

Radharani Ghose and Others

RESPONDENT

Date of Decision : 08-01-1953

Acts Referred:

West Bengal Premises Rent Control (Temporary Provisions) Act, 1950 — Section 14, 14(1), 14(4)

Citation : AIR 1954 Cal 102 : 57 CWN 801

Hon'ble Judges : K.C. Chunder, J

Bench : Single Bench

Advocate : Mrinal Kumar Ghose, for the Appellant; Jitendra Kumar Ghose, for the Respondent

Judgement

K.C. Chunder, J.—This rule was issued at the instance of a tenant. The landlord sued for arrears of rent as well as for ejectment. Rent was in arrears from October, 1947 to June, 1952 according to the landlord. The tenant was ordered to make deposit of the whole of this rent u/s 14 (4) overruling his contention that the Court is only entitled to order him to deposit the portion which the Court determines is not barred by limitation. The Court was of opinion that the question of limitation could be considered u/s 14 (4). It has been pointed out in the Full Bench decision in the case -- T.S.R. Sarma Vs. Nagendra Bala Debi, (A) that Section 14 (4), Rent Control Act is to be read subject to Section 14 (1). Section 14(1) says that the arrears of rent are legally payable. Therefore where arrears of rent are mentioned in Section 14 (4) they are arrears of rent legally payable and if the tenants cannot be compelled in law to pay any portion of such rent because It is barred by limitation, then the Court cannot make an order for deposit of the same.

2. Therefore, the order of the learned Munsif will be set aside and the case will go back to him for determining u/s 14 (4) the amount of cent in arrears legally payable, deciding what part of it, if any, is barred by limitation. The amount he

finds barred by limitation is to be excluded and the balance is to be ordered to be deposited. Each party will pay his own cost in this Rule.

3. I do not give any decision as to whether any part is barred by limitation as that is to be the subject of decision by the learned Munsif.