

(1986) 11 SC CK 0017

In the Supreme Court Of India

Case No : Civil Appeal No. 2772 of 1980

Laxmi Narain Gauri Shankar

APPELLANT

Vs

Gopal Krishna Kanoria alias Gopi Krishna and Another

RESPONDENT

Date of Decision : 11-11-1986

Acts Referred:

Bihar Buildings (Lease, Rent and Eviction) Control Act, 1947 — Section 11

Citation : AIR 1987 SC 8 : (1986) 34 BLJR 840 : (1986) 1 JT 800 : (1987) PLJR 7 : (1986) 2 SCALE 743 : (1987) 1 SCC 51 : (1987) 1 UJ 241

Hon'ble Judges : V. Khalid, J;Ranganath Misra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Ranganath Misra, J.—This appeal by special leave is by the tenant (defendant No. 1)-a firm and its managing partner and is directed against a decree of eviction granted by the trial court and upheld in appeal by the District Judge and the High Court.

2. Eviction from the premises was asked for on three grounds: (1) personal necessity, (2) sub-letting to respondent No. 2 and (3) material damage caused to the building by the sub-tenant. All the courts have negatived the plea of personal necessity as also sub-letting as valid grounds for eviction but the suit has been decreed on the third ground.

3. It has been found as a fact that in a compromise between the plaintiff and the defendant No. 1, the tenant was given liberty to induct a sub-tenant at its discretion. Defendant No. 2 was inducted by the tenant in terms of the authority in the compromise terms but as the High Court has clearly found there was no privity between the landlord and the sub-tenant. The courts below had relied upon the tenant's suit against the sub-tenant on the ground of damage to the premises on various scores and the plaint of that suit (Ext. 3) was utilised as containing an admission in that regard

4. We agree with the High Court that in the facts of this case, particularly when there was no privity between the landlord and the subtenant, the obligations of the tenant as a lessee of the premises both in law as also on the basis of contract to maintain the premises in good condition and to deliver the premises back to the landlord at the end of the tenancy in good state remained unaffected. The tenant became responsible for wrongful acts of his sub-tenant and in an action u/s 11(b) of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1947, the same could be used as a ground for eviction.

5. There is no merit in the stand taken by the tenant-appellant and the appeal has thus to fail and is dismissed with costs throughout.