
(1951) 04 CAL CK 0030
In the Calcutta High Court
Case No : Civil Rule No. 1669 of 1950

Marzia Khatun Saheba

APPELLANT

Vs

Srimanta Kumar

RESPONDENT

Date of Decision : 12-04-1951

Acts Referred:

West Bengal Premises Rent Control (Temporary Provisions) Act, 1950 — Section 17, 9, 9(1)

Citation : AIR 1953 Cal 315 : 56 CWN 95

Hon'ble Judges : Roxburgh, J

Bench : Single Bench

Advocate : Apurba Dhan Mukherji, for C.F. Ali, for the Appellant; Nilkantha Chatterji, for the Respondent

Judgement

Roxburgh, J.—This is a Rule against an order passed in appeal by the District Judge of Burdwan in a matter for fixation of standard rent under the Rent Control Acts. The original application was dealt with by the Rent Controller under the Act of 1948. The appeal was disposed of on 6-6-1950, after Act 17 of 1950 came into force. Under the provisions of Section 17 (3) of the later Act, the standard rent was to be fixed in accordance with the provisions of that Act. It is quite clear from the judgment of the learned District Judge that he never considered the effect of the provisions of the new Act, and dealt with the matter as though it was entirely to be disposed of u/s 9 (a) or 9 (g) of the Act of 1948.

2. It is therefore necessary to set aside the order of the learned Judge and direct him to re-hear the matter.

3. I have already decided in the case of --"Charu Bala Dassi v. Satyaranjan Mukherjee", Civil Revn. Case No. 954 of 1950 (Cal), and in subsequent cases, that, the provision applicable in respect of buildings erected between 1-12-1941 and 31-12-1949 is Section 9 (1) (e) of the Act of 1950. Buildings erected after 31-12-1949, are dealt with in Clause (f) of Section 9 (1). Clause (e) begins:

"excepting in the case covered by Clause (f) following....."

This shows clearly that, but for the exception the cases now dealt with in Clause (f) would be dealt with in Clause (e). In other words, Clause (e) deals with buildings erected after 1-12-1941 and those erected after 31-12-1949, are excluded. In ascertaining the rent at which the premises would have been let on 1-12-1941, the provisions of Sub-section (2) may require to be applied. Whether the total effect of applying Sections 9 (1) (e) and 9 (2) to the case will be that the rent arrived at is the same as has been referred to as the "prevailing rate" in Section 9 (a) of the Act of 1948, I am of course unable to say, but it is clear that in accordance with the law, standard rent is to be determined under the provisions I have indicated and that has not yet been done in this case.

4. The Rule is accordingly made absolute. The order of the, District Judge is set aside and the case is sent back to him to be dealt with in accordance with the directions given above.

5. I make no order as to costs.