
(1970) 01 CAL CK 0002
In the Calcutta High Court
Case No : S.A. No. 1282 of 1960

Mrs. I. David

APPELLANT

Vs

State Bank of India Staff Association

RESPONDENT

Date of Decision : 12-01-1970

Acts Referred:

West Bengal Premises Tenancy (Amendment) Act, 1969 — Section 13(2), 4

Citation : 74 CWN 585 : (1971) 1 ILR (Cal) 185

Hon'ble Judges : P.N. Mookerjee, J;Amiya K. Mookerji, J

Bench : Division Bench

Advocate : A.D. Mukherji, Harendra Nath Bhattacharya and Bimal Bhushan Banerjee, for the Appellant;Lala Hemanta Kumar and Manick Chandra Banerji, for the Respondent

Final Decision : Dismissed

Judgement

P.N. Mookerjee, J.—This appeal is by the tenant-Defendant. It arises out of a suit for ejectment under the West Bengal Premises Rent Control (Temporary Provisions) Act, 1950. The appeal is directed against the decree for ejectment passed by the lower appellate Court on the ground of the Plaintiff's reasonable requirement of the disputed premises after building and rebuilding. For the said purpose, the Plaintiff filed a sanctioned plan in which the proposed building and rebuilding have been indicated. On the said plan and the evidence before the Court the learned Judge in the Court of Appeal below, came to the conclusion that the Plaintiff reasonably required the disputed premises for its own use and occupation after building and rebuilding.

2. On the materials before us, we are unable to say that the said finding is perverse or not justified by the evidence on record. The Court of Appeal below also came to the conclusion, on due consideration of the different aspects of the matter, that, in the instant case, the balance of comparative advantage and disadvantage will entitle the Plaintiff to a decree under the relevant statutory provision. We have no reason, on the materials before us, to differ from the said

view of the lower appellate Court.

3. Mr. Mukherji, arguing this appeal on behalf of the Appellant, contended that the Plaintiff's case, on which the lower appellate Court decreed its claim, is not to be found in the plaint.. We have read the plaint and we are satisfied that there is no substance in the above contention of Mr. Mukherji.

4. Mr. Mukherji also contended that the instant suit would fail by reason of the new Act (W.B. XXXIV of 1969), Section 4, Sub-section (2) which, read with Section 13, would be retrospective so as to apply to pending appeals. It is to be observed, however, that the said statute is an amending Act with reference to the West Bengal Premises Tenancy Act, 1956, and that it has no relevance as regards the West Bengal Premises Rent Control (Temporary Provisions) Act, 1950, with which we are here concerned. We, accordingly, reject this submission too of Mr. Mukherji.

5. In the above view, this appeal will fail and it will be dismissed. But, in the circumstances before us, we will grant the Appellant time till the end of November next, within which time she must vacate the disputed premises and make over vacant and peaceful possession of the same to the Plaintiff-decree-holder, provided however that, in the meantime, she goes on depositing in the trial Court, to the credit of the Plaintiff-decree-holder, a sum of Rs. 88 per month, month by month regularly, according to the English calendar, within 15th of the next succeeding month, according to the same calendar. In default of any two of the above deposits, the above decree will become executable at once.

6. Subject as above, this appeal is dismissed.

7. There will be no order for costs in this Court.

Amiya K. Mookerji, J.

8. I agree.