

(1932) 12 PAT CK 0008
In the Patna High Court

Mt. Janki Dai

APPELLANT

Vs

Dwarka Nath Singh

RESPONDENT

Date of Decision : 09-12-1932

Acts Referred:

Bengal Tenancy Act, 1885 — Section 61, 64

Citation : AIR 1933 Patna 219

Hon'ble Judges : Agarwala, J

Bench : Division Bench

Judgement

Agarwala, J.—The petitioner, who is a mukarraridar under the opposite party, deposited the rent in Court in accordance with the provisions of Section 61 of the Bengal Tenancy Act on 17th August 1918. Subsequently notices were duly served on the landlord who took no steps to withdraw the money.

2. On 10th October 1931, the petitioner applied to the Court in which the money was deposited on leave to withdraw it. On 28th January 1932, the opposite party made a similar application. The Munsif has directed payment to be made to the opposite party landlord. The petitioner moved this Court against that order and contends that he is entitled to withdraw the money. The contention is based on the third clause of Section 64 of the Act which provides that:

If no payment under this section before the expiration of three years from the date of deposit is made, the amount deposited may, in the absence of any order of the civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Court in which the rent is deposited.

3. It is contended that after the expiration of three years the landlord was not entitled to withdraw the money. In my opinion the period of limitation provided in Clause (3) is not for the purpose of barring the landlord's claim to withdraw the money, but for the purpose of preventing the tenant from withdrawing the money before the expiration of the period stated in the statute. When a tenant has deposited rent u/s 61 and has obtained acquittance from the Court in respect

of the rent as provided by the statute, he ceases to have any right in the money which is then held by the Court on behalf of the landlord.

4. There is no merit in this application which is dismissed with costs to the opposite party: hearing fee one gold mohur.