

(1989) 01 BOM CK 0002

In the Bombay High Court

Case No : Writ Petition No's. 826 of 1981 and 6166 of 1988

Shantilal Misrilal Chhajer

APPELLANT

Vs

Sadashiv Murlidhar Ratnaparkhi

RESPONDENT

Date of Decision : 19-01-1989

Acts Referred:

Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 — Section 12, 13, 23, 26

Citation : (1989) 91 BOMLR 860

Hon'ble Judges : A.D. Tated, J

Bench : Single Bench

Judgement

A.D Tated, J.—This writ petition is directed against the judgment and decree dated 27th January, 1981 passed by the Extra Assistant Judge, Nasik (Shri J.G. Chitre), in Civil Appeal No. 242 of 1987 against the Judgment and decree dated 28th August, 1978 passed by the Civil Judge, Junior Division, Nandgaon, in Regular Civil Suit No. 179 of 1974.

2. The facts giving rise to the present writ petition are that the respondent-plaintiff owns a house bearing number 464 situate at Nandgaon District Nasik. The petitioner-defendant occupies three rooms on the western side and one room admeasuring 15"x5" on the northern side as tenant of the plaintiff-landlord. He first hired three rooms on monthly rent of Rs,27/- and later on hired one more room on monthly rent of Rs. 13/-. The defendant-tenant paid rent to the father of the plaintiff-landlord and after his death to the plaintiff at the rate of Rs. 40/- per month. The father of the plaintiff did not issue rent receipts to the defendant. He maintained a register and obtained signature of the defendant whenever he paid rent. He died on 1st October, 1971. According to the plaintiff, after the death of his father the defendant paid Rs. 100/- only towards rent and it was adjusted towards the arrears of rent for the months of September, October, and part of November, 1971. The amount of Rs. 20/- out of the rent for November, 1971 and the rent for the period from December, 1971 onwards, according to the plaintiff, was not paid by the defendant. The defendant had sent

to the plaintiff a money order for Rs. 35/- in January, 1974. It was refused by the plaintiff. Thereafter the plaintiff served the notice of demand Ex. 33, dated 7th April, 1974 on the defendant and claimed arrears of rent for the period from December, 1971 to March, 1974, amounting to Rs. 1,180/-. The defendant on 21st May, 1974 sent a money order for Rs. 195/- to the plaintiff. He also sent the reply Ex. 53, dated 8th May, 1974 to the notice to quit dated 8th April, 1974. In that reply he mentioned how the amount of Rs. 195/- was due from him. According to the defendant, he was at that time in arrears of rent for the period from January, 1974 to April, 1974, amounting to Rs. 160/-. That amount along with the amount of Rs. 35/-, which he had already remitted by money order but the plaintiff had refused that money order, was also sent along with Rs. 160/-. Thus the money order for the amount of Rs. 195/- was sent. The plaintiff refused that money order.

3. The respondent-landlord instituted the suit on 1st January, 1974 against the petitioner-tenant for recovery of arrears of rent and for eviction of the defendant-tenant. He claimed arrears of rent amounting to Rs. 1,180/- for the period from November, 1971 to June, 1974. For November, 1971 he claimed Rs. 20/-, as the remaining amount of Rs. 20/- he had already received when the defendant tenant paid Rs. 100/- for the months of September, October and a part of November, 1971. He claimed eviction of the defendant on three grounds, namely, (1) the defendant defaulted in payment of rent for more than six months and did not pay the same within one month of the receipt of the demand notice dated 7th April, 1974; (2) the defendant did not use the suit premises for more than six months for which they were let out to him; and (3) the respondent-plaintiff required the suit premises reasonably and bona fide for his own use and occupation, as the cold weather at Nasik did not suit the members of his family, and, therefore, he wanted to shift his family to his native place Nandgaon.

4. The learned trial Judge raised necessary issues on the pleadings of the parties and after referring them to trial he found that the petitioner-defendant-tenant was not a defaulter in payment of rent and that he was not in arrears of rent from November, 1971. He also found that the defendant paid rent up to September, 1973. He held that the standard rent of the suit premises was Rs. 28/- per month. He also held that the respondent-plaintiff-landlord failed to prove that the suit premises were required reasonably and bona fide for his own use and occupation. He also found that the plaintiff failed to prove that the defendant did not use the suit premises for more than six months prior to the date of the suit for the purpose for which they were let out to him. On those findings he found that the plaintiff was not entitled to the decree for eviction sought by him. He, therefore, dismissed the plaintiff's claim for eviction, and as regards rent he held that the standard rent of the suit premises was Rs. 15/- and Rs. 13/- per month. Feeling aggrieved by the judgment and decree passed by the learned trial Judge dismissing his claim for eviction from the suit premises and recovery of rent thereof, the plaintiff preferred an appeal to the District Court, Nasik. It was registered as Civil Appeal No. 242 of 1978. It was heard by

the learned Extra Assistant Judge, Nasik, He reversed the findings of the learned Civil Judge, Junior Division, Nandgaon, on the point of arrears of rent and also on the point of reasonable and bona fide requirement of the plaintiff in respect of the suit premises for his own use and occupation, and decreed the suit for recovery of arrears of rent and eviction of the defendant from the suit premises.

5. Feeling aggrieved, the defendant-tenant preferred this writ petition. The learned Counsel for the petitioner-defendant contends that the learned Appellate Judge was not right in finding that the defendant was in arrears of rent for more than six months and he did not pay the same within one month of the receipt of the demand notice dated 7th April, 1974. He submits that the learned Appellate Judge did not take into consideration the letter Ex. 37, dated 3rd December, 1973 sent by the respondent-plaintiff-landlord to the defendant wherein he had mentioned that rent for about one and a quarter years was in arrears and that he sent the arrears of rent, after deducting the amount of Rs. 125/- which he had spent for repairs of the suit premises, to the plaintiff. He submits that even the plaintiff admits that the repairs were effected to the suit premises and that the defendant examined the person who carried out the repairs and also examined the neighbour who also deposed to that effect. He submits that in his reply letter dated 3rd January, 1974 he had mentioned that the rent for four months amounting to Rs. 160/- was due from him and that the amount of Rs. 125/- was to be received by him from the plaintiff on account of repairs made by him at the instance of the plaintiff and, therefore, after deducting that amount he remitted a sum of Rs. 35/- by money order to the plaintiff towards the arrears of rent. The learned Counsel contends that the plaintiff never replied the letter dated 3rd January, 1974 received by him from the defendant and he wrongly refused to accept the money order of Rs. 35/-. He submits that the demand notice dated 7th April, 1974 was sent by the plaintiff. In that notice also he did not refute the averment of the defendant in his reply letter dated 3rd January, 1974 that he had carried out repairs to the suit premises and had spent Rs. 125/- for the same. He submits that on receiving the demand notice dated 7th April, 1974 the defendant remitted a sum of Rs. 195/- to the plaintiff. The amount of Rs. 195/- consisted of rent for the period from January, 1974 to April, 1974 and the amount of Rs. 35/- which the plaintiff had earlier refused to accept when remitted by money order. The defendant had given the reply Ex. 53, dated 8th May, 1974 to the quit notice of the plaintiff and in that reply he clearly mentioned all those facts.

6. The learned Counsel for the petitioner-defendant-tenant contends that though the correspondence referred to above was exchanged between the parties, the learned Appellate Judge did not refer to the said correspondence and also did not appreciate the evidence on record with reference to those letters exchanged between the parties which have a great bearing on the question of arrears of rent and as such the learned Extra Assistant Judge acted with material irregularity in the exercise of his jurisdiction and, therefore, his finding that the defendant defaulted in payment of rent for more than six months is vitiated.

7. The learned Counsel for the respondent-plaintiff-landlord, on the other hand, contends that the petitioner-defendant-tenant had not served, as required by Section 23 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (hereinafter for the sake of brevity referred to as "the Bombay Rent Act"), a notice on the plaintiff before effecting repairs and as such he was not entitled to deduct the amount of Rs. 125/- alleged to have been spent by him towards repairs from the arrears of rent. He submits that if the amount spent by the plaintiff towards the repairs of the suit premises is not taken into consideration, the defendant was clearly in arrears of rent for more than six months and the amount of Rs. 195/-remitted by him by money order was not sufficient to satisfy the arrears of rent for more than six months due from the defendant. He also submits that in the letter Ex. 37, dated 3rd December, 1973 the plaintiff has loosely stated that the rent for the period of one year and three months was due from the defendant and on that basis it cannot be said that the defendant had paid rent for the period from November, 1971 onwards. He submits that the defendant failed to prove that he paid rent for the period from November, 1971 onwards and, therefore, the learned Extra Assistant Judge was right in finding that the defendant was in arrears of rent since November, 1971 and in decreeing the claims of the plaintiff for arrears of rent in full.

8. It is not disputed that neither the father of the respondent-plaintiff-landlord nor the plaintiff issued receipts to the tenants for payment of rent, though it is obligatory u/s 26 of the Bombay Rent Act to pass receipt in favour of a tenant on receiving the rent. The plaintiffs father had maintained a register in which he recorded the rent received and obtained signature of the petitioner-defendant-tenant. That register is Ex. 32. As per that register, rent was paid by the defendant up to August, 1971. The plaintiff states that he received Rs. 100/- in December, 1971 from the defendant, and thereafter no payment has been received towards rent. The defendant, on the other hand, states that he has been paying rent of the suit premises to the plaintiff, after the death of his father, from time to time whenever he came to Nandgaon, but the plaintiff never passed receipts for payment of the rent. Admittedly, the plaintiff addressed the letter Ex. 37, dated 3rd December, 1973 to the defendant. In that letter he has written that the rent for the period of one and a quarter years was due from him. It is also mentioned therein that the defendant had agreed to pay rent every quarter but he did not pay it accordingly. The plaintiff asked the defendant to remit the arrears of rent due from him. After receiving this letter the defendant replied on 3rd January, 1974. In that letter he refuted the plaintiffs contention that he was in arrears of rent for one and a quarter years. He mentioned therein that he was paying rent to him at the end of every three or four months whenever he visited Nandgaon and that he did not learn of his visit to Nandgaon during the last four months and, therefore, rent for four months was due from him. He also mentioned therein that during monsoon he (that is, the plaintiff) had asked him to carry out the repairs to the suit premises and accordingly he had spent Rs. 125/- for repairs. He also mentioned therein that the plaintiff had agreed for the

deduction of the amount spent on the repairs to the suit premises from the rent. He mentioned therein that after deducting the amount of Rs. 125/- spent by him on repairs he remitted the remaining amount of the rent for the period till the end of December, 1973 by money order. Accordingly, he sent Rs. 35/- by money order, but the plaintiff refused to accept the money order. It is pertinent to note that the plaintiff did not reply the defendant's letter dated 3rd January, 1974 and also did not refute the averments made therein. The demand notice Ex. 33, dated 7th April, 1974 was sent by the plaintiff through his Advocate to the defendant. In that notice also he has not made any reference to the defendant's letter Ex. 38, dated 3rd January, 1974. Had the averments made by the defendant in his letter dated 3rd January, 1974 been not correct, it was expected of the plaintiff to refute them in the demand notice dated 7th April, 1974, but he failed to do so.

9. Taking into consideration that the respondent-plaintiff-landlord in the letter Ex. 37, dated 3rd December, 1973 had stated that the rent for about one and a quarter years was due from the petitioner-defendant-tenant and the reply Ex. 38, dated 3rd January, 1974 given by the defendant to the plaintiff's letter dated 3rd December, 1973, and the failure of the plaintiff to refute the averments made in the defendant's reply dated 3rd January, 1974, the testimony of the defendant that he paid rent to the plaintiff and that the rent for four months only expiring on 31st December, 1973 was due from him on 3rd January, 1974 can be safely relied upon. Out of the amount of Rs. 160/- which was due on account of rent for four months, the defendant deducted Rs. 125/- which he had spent for repairs and he remitted the amount of Rs. 35/- to the plaintiff by money order. The plaintiff refused the money order without assigning any reason. In the demand notice Ex. 33, dated 7th April, 1974 also he did not mention why he refused to accept the money order of Rs. 35/- sent by the defendant. The defendant replied the demand notice dated 7th April, 1974 on 8th May, 1974 (Ex. 53). In that reply he clearly mentioned that after deducting the amount of Rs. 125/- spent by him for repairs Rs. 35/- was due from him and he remitted that amount by money order. He mentioned therein that at the instance of the plaintiff he carried out the repairs to the suit premises and spent Rs. 125/- for that purpose, and as per instructions of the plaintiff he deducted that amount from the arrears of rent.

10. The testimony of the petitioner-tenant in this respect is fully corroborated by the documents referred to above. According to the defendant the amount of Rs. 195/- was due from him to the plaintiff when he received the demand notice Ex. 33, dated 7th April, 1974 and he sent that amount by money order and also replied the said notice by his letter Ex. 53, dated 8th May, 1974. Taking into consideration that the plaintiff was not issuing receipts for the rent received by him and also the correspondence exchanged between the parties referred to above, the case of the petitioner-defendant-tenant that the amount of Rs. 195/- only was due from him on account of arrears of rent, after deducting the amount of Rs. 125/- spent by him for the repairs to the suit premises, can be safely

relied upon, and I find that the learned trial Judge was right in accepting the testimony of the defendant in this regard. The learned appellate Judge did not at all consider the documents referred to above and for no valid reason reversed the finding of the learned trial Judge on this point. In the teeth of the documents referred to above, the learned appellate Judge was not right in accepting the case of the plaintiff that the defendant was in arrears of rent right from November, 1971 till the date of the suit.

11. The learned Counsel for the respondent-plaintiff-landlord contends that the learned appellate Judge was right in not allowing deduction of the charges for repairs to the suit premises from the arrears of rent, in view of the provisions of Section 23 of the Bombay Rent Act. He submits that as the petitioner-defendant-tenant did not remit the whole of the amount demanded by the plaintiff by the demand notice Ex. 33, dated 7th April, 1974, it must be held that he failed to pay the arrears of rent within one month from the receipt of the demand notice as required by Section 12(2) of the Bombay Rent Act. I am unable to agree with the learned Counsel that the defendant has to remit the amount demanded by the plaintiff in the demand notice dated 7th April, 1974, irrespective of the fact whether that amount is due from him. He has only to remit the amount which is due from him; and in the present case, according to the defendant he was in arrears of rent for four months, amounting to Rs. 160/-, and the amount of Rs. 35/- was payable to the plaintiff, as the plaintiff had earlier refused to accept the money order for the said amount. Thus he remitted the amount of Rs. 195/- to the plaintiff by money order within one month of the receipt of the demand notice dated 7th April, 1974, but the plaintiff refused to accept it. The only contention raised by the learned Counsel for the respondent is that the petitioner could not deduct the amount he spent for repairs to the suit premises, as he had not followed the procedure laid down in Section 23 of the Bombay Rent Act while effecting the repairs. Section 23 of the Bombay Rent Act reads thus :

23. (1) Notwithstanding anything contained in any law for the time being in force and in the absence of an agreement to the contrary by the tenant, every landlord shall be bound to keep the premises in good and tenable repair.

(2) If the landlord neglects to make any repairs which he is bound to make under Sub-section (1), within a reasonable time after a notice of not less than fifteen days is served upon him by post or in any other manner by a tenant or jointly by tenants interested in such repairs, such tenant or tenants may himself or themselves make the same and deduct the expenses of such repairs from the rent or otherwise recover them from the landlord :

Provided that where the repairs are jointly made by the tenants the amount to be deducted or recovered by each tenant shall bear the same proportion as the rent payable by him in respect of his premises bears to the total amount of the expenses incurred for such repairs together with simple interest at the rate of fifteen per cent, per annum of such amount :

Provided further that the amount so deducted or recoverable in any year shall not exceed one-fourth of the rent payable by the tenant for that year.

(3) For the purpose of calculating the expenses of the repairs made under Sub-section (2), the account together with the vouchers maintained by the tenants shall be conclusive evidence of such expenditure and shall be binding on the landlord.

In the present case it is proved from the evidence of the defendant and his witnesses that he carried out the repairs to the suit premises and spent Rs. 125/- for the same. He has examined the person who carried out the repair work. The plaintiff has also admitted that the repairs have been carried out, but he states that they were carried out by him. He led no evidence to prove that those repairs were carried out by him. The evidence of the defendant is supported by the testimony of another tenant of the plaintiff named Mahalle and the Contractor who carried out the repairs. Consequently, agreeing with the learned trial Judge, I find that the defendant carried out the repairs. The learned Appellate Judge did not reverse this finding of fact recorded by the Trial Court.

12. It is the case of the petitioner-defendant-tenant that the respondent-plaintiff-landlord had asked him to effect the repairs and deduct the amount spent for the purpose from the rent. His testimony finds support from the reply Ex. 38, dated 3rd January, 1974 which he had sent to the plaintiffs letter Ex. 37, dated 3rd December, 1973. The plaintiff did not refuse the averments made by the defendants in his reply. Even in the demand notice Ex. 33, dated 7th April, 1974 he has not denied the averment of the defendant that the plaintiff asked him to carry out the repairs and deduct the repair charges from the rent. Consequently, agreeing with the learned trial Judge, I find that the defendant had deducted the repair charges from the rent as per the agreement between the parties. Under such circumstances, the provisions of Section 23 of the Bombay Rent Act are no bar to the tenant deducting the repair charges from the rent. Consequently, it must be held that the defendant was justified in deducting the amount of Rs. 125/- spent by him for the repairs from the rent due from him. In that event, the amount due from him on account of arrears of rent on the day he received the demand notice from the plaintiff did not exceed Rs. 195/- and he remitted that amount by money order within the statutory period of one month. Hence the defendant cannot be said to have neglected or defaulted in payment of rent and he cannot be evicted on that count.

13. It was contended by the learned Counsel for the petitioner-defendant-tenant that the demand notice Ex. 33, dated 7th April, 1974 sent by the respondent-plaintiff-landlord wherein he demanded the arrears of rent amounting to Rs. 1,180/- while amount of Rs. 195/- only was due from the defendant was not a valid demand notice. He submits that the plaintiff knew what rent he had received. He also knew that he did not issue receipts for the rent he received from the defendant. The amount demanded as arrears of rent by the plaintiff in the demand notice dated 7th April, 1974 is a highly exaggerated amount. While

the amount of Rs. 195/- was due from the defendant, the plaintiff demanded of Rs. 1,180/- from him. It was not a marginal error which could be condoned. The error was colossal and on that account also the demand notice dated 7th April, 1974 was bad.

14. In Commissioner of Income Tax, Kanpur Vs. Mother India Refrigeration Industries P Ltd., the Supreme Court while considering the provisions of Sections 12 and 13 of the M.P. Accommodation Control Act, 1961 held that if there is a substantial defect in the description regarding extent of demised premises in respect of which rent has been claimed, the notice is invalid. At page 18 of the report their lordships of the Supreme Court observed thus :

The notice referred to in Section 12(1)(a) must be a notice demanding the rental arrears in respect of accommodation actually let to the tenant. It must be a notice (a) demanding the arrears of rent in respect of the accommodation let to the tenant and (b) the arrears of rent must be legally recoverable from the tenant. There can be no admission by a tenant that arrears of rent are due unless they relate to the accommodation let to him, A valid notice demanding arrears of rent relatable to the accommodation let to the tenant from which he is sought to be evicted is a vital Ingredient of the conditions which govern the maintainability of the suit, for unless a valid demand is made no complaint can be laid of non-compliance with it, and consequently no suit for ejectment of the tenant in respect of the accommodation will lie on that ground.

On the same analogy the demand notice would be bad if highly excessive demand for arrears of rent, not actually due, is made. In the present case the difference in the arrears of rent claimed by the plaintiff and the amount actually due from the defendant as arrears is not marginal or insubstantial. The tenant was not in arrears of rent for six months or more and on receiving the demand notice dated 7th April, 1974 he remitted the amount of Rs. 195/- which was due from him as arrears of rent within one month of the receipt of the notice and as such he could not be evicted for default in payment of rent u/s 12(3)(a) of the Bombay Rent Act. The demand notice being for a highly exaggerated amount which to the knowledge of the plaintiff was not due, is also not a valid notice under Sub-section (2) of Section 12 of the Bombay Rent Act and, as such the petitioner-tenant could not be evicted on the ground mentioned therein.

15. The learned Counsel for the petitioner next contends that the learned Appellate Judge was not right in reversing the finding of the Trial Court that the plaintiff failed to prove that he required the suit premises for his personal occupation. He submits that the learned trial Judge who heard the evidence of the plaintiff and Dr. Deo regarding the necessity of shifting his family from Nasik to Nandgaon on the ground that the cold weather at Nasik did not suit the members of his family and the plaintiffs wife in particular, for cogent convincing reasons rejected their testimony on this point; but the learned Appellate Judge in the most casual manner without demonstrating that the reasoning of the Trial Court in arriving at the finding on the issue in question was wrong reversed the

finding of fact recorded by the Trial Court. The learned Counsel took me through the pleadings, the evidence of the plaintiff and his witness Dr. Deo and also through the judgments of the two Courts below and submitted that no Court reasonably could reach the conclusion reached by the Appeal Court on the evidence on record. I find much force in the contention of the learned Counsel. Had the Appeal Court read the letter dated 3.12.1973, Ex. 37 received by the defendant from the plaintiff he would have known that the plaintiff wanted to sell the suit house and for that purpose he requested the defendant to vacate the house. As the defendant did not accede to his request, the plaintiff served quit notice on him and in that notice he mentioned as one of the grounds that he required the premises for his occupation as the weather at Nasik did not suit his family members. Neither in the notice nor in the plaint it was mentioned that the wife of the plaintiff suffered from Asthma and the weather at Nasik did not suit her. It was only at the trial that it was disclosed that the wife of the plaintiff suffered from Asthma. Though the plaintiff and his family members have been staying at Nasik for the ten years before his evidence was recorded on 27.7.1978, he has not produced any medical diagnosis paper prescription or any other document in support of his case that the cold weather at Nasik did not suit his wife and she required constant medical treatment on that account. Dr. Deo started medical practice in the year 1974. Though he has maintained case papers and notes of his visits to the house of the plaintiff, he did not produce any document. Therefore the learned trial Judge was right in discarding the testimony of the plaintiff and Dr. Deo that the wife of the plaintiff suffered from Asthma due to cold weather of Nasik. The learned Appellate Judge in the most casual manner without considering the relevant evidence on record and admissions of the plaintiff and Dr. Deo during their cross-examination, accepted their evidence and reversed the finding of the Trial Court. I fully agree with the learned Counsel for the petitioner that the learned appellate Judge exercised his jurisdiction with material irregularity and wrongly reversed the finding of the trial Court on this point. Consequently I find that the finding of the learned appellate Judge that the plaintiff required the suit premises reasonably and bona fide for his personal use is vitiated and must be discarded and that of the Trial Court that the plaintiff failed to prove that the suit premises were required by him bona fide for his personal occupation has to be restored.

16. The learned Counsel for the respondent contends that the defendant-petitioner did not use the suit premises for six months for the purpose for which it was let out and on that ground the plaintiff-respondent was entitled to recover possession of the suit premises. Both the Courts have given concurrent finding on this point against the plaintiff. There is nothing on record to vitiate the concurrent finding of fact recorded by the two Courts on this point. Hence I reject the contention of the learned Counsel for the respondent.

17. In the result the petition succeeds and the rule has to be made absolute, but before passing final order it is necessary to take into consideration the subsequent events pleaded by the parties. According to the learned Counsel for

the respondent, the respondent has retired from service pending the petition and he wants to return to his native place Nandgaon and hence he requires the suit premises reasonably and bona fide for his occupation. According to the learned Counsel for the petitioner-defendant, the plaintiffs tenant Ram krishna Baliram Mahale who occupied the eastern portion, has been transferred to Malegaon and he vacated the eastern portion of the house occupied by him and delivered vacant possession to the respondent and it meets the personal requirement of the respondent. The defendant has filed affidavits dated 5th and 8th of December, 1988 whereby he placed those facts on record. Both the Counsel for the parties submit that the question whether in view of the retirement of the plaintiff from service he requires the suit premises reasonably and bona fide for his personal occupation and if so, whether greater hardship would be caused by passing the decree than by refusing to pass it, should be remitted to the Trial Court with liberty to the parties to lead additional evidence and after the finding is received duly certified by the Appeal Court final order in this petition should be passed. Instead of forcing the plaintiff-respondent to go in for a second suit for eviction, it is proper that the subsequent events are taken into consideration before passing the final order. Hence the following points are remitted to the Trial Court :

1. Whether on retirement of the plaintiff from service, he requires the suit premises reasonably and bona fide for his personal occupation?
2. Whether greater hardship would be caused by passing the eviction decree refusing it?

The learned trial Judge shall permit the parties to adduce additional evidence on the above points and record his findings and those findings duly certified by the Appeal Court shall be remitted to this Court within three months of the receipt of the writ by the Trial Court. The matter shall be placed on board after the findings duly certified are received for final orders. The parties are directed to appear in the Trial Court on 2.2.1989. The writ along with a copy of this judgment shall be immediately sent to the Trial Court.