
(1987) 03 SC CK 0053

In the Supreme Court Of India

Case No : Civil Appeal No. 3974 of 1987 Arising out of SLP (C) No. 5255 of 1987

Smt. Dhan Mal Devi Jain

APPELLANT

Vs

Gordhan Dass and Others

RESPONDENT

Date of Decision : 03-03-1987

Acts Referred:

Madhya Pradesh/Chhattisgarh Accommodation Control Act, 1961 — Section 2(1)

Citation : (1987) 1 JT 623 : (1987) SCC 632 Supp : (1987) 1 SCC 632 Supp

Hon'ble Judges : Sabyasachi Mukherjee, J;A. N. Sen, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

A.P. Sen, J.—The decision of the Constitution Bench in Ashutosh Swain and Others Vs. State Transport Authority and Others, has now settled the conflict between the decision of this Court in Damadilal and Ors. v. Parashram and Ors. (1976) Supp.SCR 645 taking a view upon the construction of the definition of the term 'tenant' u/s 2(1) of the Madhya Pradesh Accommodation Control Act, 1961 as including a statutory tenant and also holding that the right is a heritable one, and the view to the contrary expressed in Ganpat Ladha Vs. Sashikant Vishnu Shinde, upon a construction of the word 'tenant' as defined in Section 5(11)(c) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 regarding the nature of statutory tenants and its heritability. The Court has held in Smt.Gian Devi Anand's case at p.37 of the Report expressly overruled the view taken in Ganpat Ladha's case.

2. In the present case, the High Court has rightly held that on the death of the statutory tenant Ghotam Mal having occurred on December 9, 1972 i.e. prior to the date when the Haryana Urban (Control of Rent & Eviction) Act, 1973 came into operation, the rights were governed by the provisions of the East Punjab Urban Rent Restriction Act, 1949. It is to be noticed that the definition of the term 'tenant' as contained in Section 2(i) of the East Punjab Urban Rent Restriction Act, 1949 was almost identical with the definition of the term in

Section 2(1) of the Madhya Pradesh Accommodation Control Act, 1961. That being so, the right of a statutory tenant was heritable. In view of the decision of the Constitution Bench in Smt. Gian Devi Anand's case, we must hold that the right of the statutory tenant in respect of non-residential accommodation is heritable.

3. In the result, the appeal fails and is dismissed with costs.