

(1955) 12 CAL CK 0028
In the Calcutta High Court
Case No : Civil Revn. Case No. 2008 of 1955

Sudhir Kumar Bhattacharjee

APPELLANT

Vs

Bibhuti Bhusan Majumdar and Another

RESPONDENT

Date of Decision : 09-12-1955

Acts Referred:

Calcutta Thika Tenancy Act, 1949 — Section 3(1), 3(4), 4
Civil Procedure Code, 1908 (CPC) — Section 9

Citation : AIR 1956 Cal 668 : 60 CWN 222 : (1957) 2 ILR (Cal) 286

Hon'ble Judges : P.N. Mookerjee, J

Bench : Single Bench

Advocate : Manan Kumar Ghose, for the Appellant; Diptendra Mohan Ghose, for the Respondent

Judgement

P.N. Mookerjee, J.—This Rule arises out of a proceeding for ejectment of a thika tenant under the Calcutta Thika Tenancy Act. The ejectment was allowed by the Controller u/s 3(1) and (4) read with Section 4 proviso (ii), Calcutta Thika Tenancy Act and there was the usual order for payment of compensation by the landlord to the tenant as required by the statute.

2. This order was affirmed by the learned appellate authority and the tenant being dis-satisfied has moved this Court and obtained the present Rule.

3. The objections of the tenant, inter alia, were that there was really no relationship of landlord and tenant between the parties; that the tenant was not a thika tenant under the Calcutta Thika Tenancy Act and no proceedings were available against him under the said Act; and that the notice to quit served in the case was illegal and defective. All these contentions were concurrently overruled by the Tribunals below and their concurrent findings have been that the suit land has been properly Identified to be the land which was let out to the tenant petitioner by the landlord opposite party; that the notice to quite was legal and sufficient and that the tenant petitioner was on the materials before the Court, clearly a thika tenant under the above Act.

4. Having examined the records, I am unable to say that any of these findings is vitiated by improper approach or misappreciation of the materials on the record. The opposite party, so far as the above points are concerned, has proved his case to the hilt and I entirely agree with the two Tribunals below that he was entitled to an order for ejectment on payment of compensation as directed by them.

5. Before me Mr. Ghose, appearing for the tenant petitioner, raised a point of law that, once the relationship of landlord and tenant is denied, there can be no proceedings for ejectment before the Thika Tenancy Controller as the said authority was a Tribunal with limited jurisdiction and had no power to go into any disputed question of title. This is, indeed, a very broad submission and I am unable to accept it. If this submission is correct, there would practically be an end of all these special legislations, for example, the Calcutta Thika Tenancy Act, or the West Bengal Premises Rent Control Act. In all proceedings under these special Acts, the Special Tribunal has certainly jurisdiction to decide questions which are necessary for the purpose of giving or refusing relief under the particular statute. The Thika Tenancy Controller, it cannot be denied, has the power and authority under the law to order eviction of Thika tenants. For that purpose, it may be necessary for him to consider defences or objections, founded on a certain claim of status, or pleas of absence of relationship of landlord and tenant or denial of the landlord's title to the property. He is certainly entitled, in my opinion, to consider these questions so far as they are necessary for the performance of his duties under the statute which include passing of orders for ejectment. My attention has been drawn by Mr. Ghose to a reported English decision in the case "B. v. Hackney, Islington and Stoke Newington Rent Tribunal" 19BQ-2 ALL BB 138 (A) where it was held that the Rent Tribunal under the Landlord and Tenant Rent Control Act of 1949 was a Tribunal with limited jurisdiction and had no power to determine whether a particular agreement was genuine or not. I do not think that the case cited supports the broad contention, raised by Mr. Ghose in the present Rule, and, apart from anything else, it is perfectly clear from the very judgment of Lord Goddard, Chief Justice, that the Tribunal there had extremely limited powers. It had not even the power to take evidence on oath. How then could it decide a question which could be decided only on evidence? It is unnecessary for me to make any further observations on the said case which, in my opinion, does not support the argument that the Thika Tenancy Controller cannot consider any question of title, even so far as it is necessary for the passing or refusal of an order of ejectment, and that, once the relationship of landlord and tenant is denied before him, his jurisdiction is ousted.

6. In the above view of the matter, I affirm the orders of the two Tribunals below and discharge this Rule with costs.