

Lalji and ors. Vs. Deepak Kumar and ors.

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Court : Madhya Pradesh

Decided On : Oct-09-2012

Appellant : Lalji and ors.

Respondent : Deepak Kumar and ors.

Judgement :

HIGH COURT OF MADHYA PRADESH PRINCIPAL SEAT AT JABALPUR
Second Appeal No.960 /1996 Lalji & 2 Others Vs. Deepak Kumar & 2 Others
Counsel for the appellants : Shri M.L. Jaiswal, Senior counsel with Shri K.K.Gautam, Advocate. Counsel for the respondents : Shri Adil Usmani, Advocate.
Present : Honble Mr. Justice Alok Aradhe

JUDGMENT

(09.10.2 012) This appeal is by the tenant, which was admitted on the following substantial question of law:- Whether the Lower Appellate Court committed an error of law in not adjudicating the dispute with regard to arrears of rent merely on the ground that sum was already deposited under section 13 of the M.P. Accommodation Control Act, 1961 ?.

2. The facts giving rise to filing of the appeal briefly stated are that the plaintiff filed the suit on the ground that he is owner of suit shop which was let out to defendants on a monthly rent of Rs.250/- on 15.6.1984. It was pleaded that the defendants are in arrears of rent for a period from 15.7.1986 to 15.7.1987, and

since October, 1986, the defendants have not used the suit shop. The suit shop is in dilapidated condition and the repairs in the same cannot be 2 S.A. No.960/1996 carried out without getting the accommodation vacated. Accordingly, the suit for eviction was filed.

3. The defendants filed the written statement in which interalia it was denied that the suit shop was let out to them on monthly rent of Rs.250/-. It was pointed out that the rent of suit shop was Rs.200/- per month, and on 3.9.1985 as well as on 8.8.1986 a sum of Rs.1575 and 2025 was deposited as rent. The plaintiff demanded rent at the rate of Rs.300/- per month from July, 1986. Though defendants tendered rent however, the plaintiff refused to accept the rent. It was denied that the suit shop is in dilapidated condition.

4. The trial Court vide judgment and decree dated 4.5.1994 held that defendants are tenants of plaintiffs in respect of the suit shop on monthly rent of Rs.225/-. It was further held that the suit shop is not in dilapidated condition. The trial Court also found that the plaintiff was unable to prove that despite notice, the defendants did not tender arrears of rent. However, the plaintiff was found entitled to receive rent to the tune of Rs.446.66.

5. Being aggrieved by the decree, the plaintiff preferred an appeal which was registered as First Appeal No.17-A/1994 whereas the appeal preferred by the 3 S.A. No.960/1996 defendants was registered as First Appeal No.16-A/1994. Both the appeals were decided by the Appellate Court by a common judgment dated 20 t h September, 1996. The Lower Appellate Court interalia held that the defendant No.1 namely Prakash Chand has admitted his signature on the agreement for rent (Ex.P/13). It was further held that the notice Ex.P/3 was sent demanding arrears of rent and the trial Court itself has found that defendants were in arrears of rent for a period from 15 t h July, 1986 to 15 t h July, 1987. Accordingly, the decree under section 12 (1)(a) of the M.P. Accommodation Control Act, 1961 (hereinafter in short referred to as the Act.) was granted by the Lower Appellate Court however findings of the trial Court on the remaining issues was affirmed.

6. Learned Senior Counsel for the appellants submitted that the Lower Appellate Court committed error of law in not adjudicating the dispute with regard to arrears

of rent merely on the ground that the amount of rent has been deposited in the Court.

7. I have considered the submissions made by learned counsel for the appellants and have perused the record. The trial Court had recorded a finding that the rate of rent is Rs.225/- per month and defendants were in arrears of rent from 15.7.1986 to 15.7.1987. The aforesaid findings 4 S.A. No.960/1996 have been affirmed by the Lower Appellate Court in paragraph-45 and 46 of its judgment. The aforesaid findings of fact have been recorded by the courts below on meticulous appreciation of evidence on record. Therefore, the contention made by the senior counsel for the appellants that the Lower Appellate Court did not adjudicate the dispute with regard to arrears of rent cannot be accepted. Thus, the substantial question of law framed by this Court is answered in the negative and against the appellants.

8. In result, the appeal fails and is hereby dismissed with costs. (Alok Aradhe)
Judge RC

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