

Khaja Mujeebuddin Vs. Khaja Muneeruddin

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Court : Andhra Pradesh

Decided On : Jan-29-2003

Reported in : 2003(4)ALD854

Judge : C.Y. Somayajulu, J.

Acts : Hyderabad Municipal Corporations Act, 1955 - Sections 276(3) and 276(4)

Appeal No. : CRP No. 378 of 2003

Appellant : Khaja Mujeebuddin

Respondent : Khaja Muneeruddin

Advocate for Pet/Ap. : P. Kesava Rao, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

C.Y. Somayajulu, J.

1. Petition filed by the revision petitioner under Section 115 of the Code of Civil Procedure, seeking a direction to the respondent [landlord] to pay the arrears of the property tax amounting to Rs. 44,627/- in respect of the premises let out to him was dismissed by the Court below by the order under revision.

2. The contention of the learned Counsel for the petitioner is that since there is likelihood of the Municipal Corporation recovering the property tax due on the demised premises, in case respondent does not pay the same, as per the provisions of Section 276 of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act'), and since the amount deposited by the revision petitioner towards rent is available in Court, respondent may be directed to pay the arrears of property tax due to the Municipal Corporation from the amount lying in deposit in Court.

3. As per Section 276 of the Act, if the owner of the premises, who is not in occupation of the building, has not paid the property tax due; the Commissioner can serve a notice on the occupier of the premises to pay the rent in respect of the said premises as tax. Section 276(3) of the Act clearly lays down that property tax remaining due for more than one year cannot be recovered from the tenant, and as per Section 276[4] of the Act, the amount of tax recovered from the tenant can be adjusted by him from the rent due and payable to the landlord. Since there is no scope of the Municipal Corporation to recover more than one year's arrears of property tax due to it on the premises from the revision petitioner, and since the tax if any, paid by the revision petitioner in pursuance of notice issued to him by Municipal Corporation can be adjusted by him towards the rent due and payable to the respondent, petitioner has no right to seek a direction that respondent should clear the arrears of property tax due to the Municipal Corporation from the rent deposited by him in Court and so I find no grounds to interfere with the order of dismissal of the petition filed by the revision petitioner.

4. Therefore, I find no merits in the revision and, hence, the revision is dismissed. No costs.

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