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Court : Madhya Pradesh

Decided On : Jul-14-1961

Reported in : AIR1963MP58

Judge : A.H. Khan, J.

Acts : [Contract Act, 1872](#) - Sections 68

Appeal No. : Civil Revn. No. 173 of 1960

Appellant : Kunwarlal Daryavsingh

Respondent : Surajmal Makhanlal and ors.

Advocate for Def. : Suraj Swarup, Adv.

Advocate for Pet/Ap. : R.M. Karkare, Adv.

Disposition : Revision allowed

Judgement :

ORDER

1. The facts giving rise to this revision are that the plaintiff brought a suit for the recovery of arrears of rent against defendant No. 1 and defendant No. 2 (father and son). The suit was resisted by the defendants on the ground that Tulsiram defendant No. 2 was a minor and that it was he who had taken the house on rent, and because a minor was not competent to contract, no rent was realisable. Both

the courts below upheld the contention and dismissed the suit. This is now a revision by the plaintiff.

2. It is admitted by the learned counsel for the plaintiff-applicant that Tulsiram defendant was a minor at the time when he took the house on rent. But it is contended that on 25-10-52, (sic) defendant No. 1 (father of defendant No. 2) made the following entry in the Bahi-Khata of the plaintiff and signed it:

rk- 25&1&54 ls edku fdjk;k izfrekl #-15 ekgokj ls pkywA

twuk [kkrk ikuk 30 ls yk;k [kkrk oknhA c n%ljtweyA

3. From the above entry in the Khata, it is evident that Surajmal, whatever might have been the previous transaction in this case, from 25-1-54 took the house on rent on Rs. 15/- per month. The signature under this entry is admitted by Surajmal and the plaintiff has also proved it. In the circumstances, there can be no doubt that Surajmal is liable to pay rent from 25-1-54, and, the present suit in the main is for the recovery of rent from that date. According to the account produced by the plaintiff, the amount due from 25-1-54 is Rs. 168/-.

4. Regarding the recovery of Rs. 15/, acknowledged by the father (Surajmal) and due for the period when the minor son took the premises on rent, the allegation in the plaint (this allegation has not been traversed and therefore must be deemed to be admitted) is that the house was taken on rent by Tulsiram (defendant No. 2), minor son of Surajmal to live in and carry on his studies in Shujalpur. In view of the provisions of Section 68 of the Contract Act, the claim of Rs. 15/- can be treated as a claim for the supply of necessities to a person incapable of contracting. It cannot be denied that the house given to the minor for the purpose of living and continuing his studies was for a necessity, suited to the conditions of minor's life. Moreover, I am of the opinion that the minor boy took the house on rent from 25-10-1953, and, that only 3 months thereafter, his father came to Shujalpur and indorsed the transaction in the Bahi-Khata in his own name in order to avoid all complications such as are now being raised in this case.

5. For reasons stated above, the revision is allowed and setting aside the judgment and decrees of the lower courts, a decree for Rs. 183/- is passed in favour of the plaintiff and against Surajmal defendant No. 1 with costs throughout.

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