

Pradeep Kumar Badsar Vs. Jagganath

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Court : Madhya Pradesh

Decided On : Mar-27-2003

Reported in : 2003(2)MPHT230; 2004(1)MPLJ197

Judge : A.K. Shrivastava, J.

Acts : Court-fees Act, 1870 - Sections 7; Madhya Pradesh Accommodation Control Act, 1961 - Sections 12(1); [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 115 - Order 7, Rule 11

Appeal No. : Civil Revision No. 833/2001

Appellant : Pradeep Kumar Badsar

Respondent : Jagganath

Advocate for Def. : Hansa Agrawal, Adv.

Advocate for Pet/Ap. : Sumesh Bajaj, Adv.

Disposition : Petition allowed

Judgement :

ORDER

A.K. Shrivastava, J.

1. This revision petition has been directed against the order dated 13-3-2001 passed by the Court below allowing the application of the defendant filed under Order 7 Rule 11, CPC and directing the plaintiff to pay ad valorem Court-fee. The suit for eviction has been filed by the applicant under the provisions of Madhya Pradesh Accommodation Control Act, 1961, against the respondent.
2. Under Section 7(xi) of the Court Fees Act, 1870, if a suit is filed on the basis of the relationship of landlord and tenant, the Court-fee is required to be paid according to the amount of the rent of the immovable property to which the suit refers, payable for the year next before the date of presenting the plaint. The Division Bench of this Court in the case of Madak Chand Jain v. Ms. Fatima Bi, 2000(1) M.P.H.T. 46 = 1999 (2) JLJ 254, has held that in an eviction suit filed on the basis of relationship of landlord and tenant on the ground of encroachment, i.e., 12 (1) (o) of the said Act, no separate Court fee is payable encroached area. The Court-fee paid on annual rental value is sufficient.
3. In this review of the matter, the Trial Court has acted illegally with material irregularity in exercise of its jurisdiction in passing the impugned order and hence it cannot be sustained and is hereby set aside.
4. The revision petition is allowed. No order as to costs.