

Rajesh Shoe Vs. Naresh Kumar

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Court : Rajasthan

Decided On : Oct-12-2001

Reported in : RLW2003(1)Raj337; 2002WLC(Raj)UC42

Judge : Prakash Tatia, J.

Acts : Rajasthan Premises (Control of Rent and Eviction) Act, 1950 - Sections 19A

Appeal No. : S.B. Civil Misc. Appeal No. 821 of 2001

Appellant : Rajesh Shoe

Respondent : Naresh Kumar

Advocate for Def. : Arvind Samdaria, Adv.

Advocate for Pet/Ap. : Usman Ghani, Adv.

Judgement :

Tatia, J.

1. Heard learned counsel for the parties.
2. After hearing both the parties it appears that there is no substantial dispute with respect to the payment of rent to the landlord by the defendant.

3. It is submitted by learned counsel for the appellant that appellant deposited rent under Section 19A of the Rajasthan Premises (Control of Rent & Eviction) Act, 1950. That application was dismissed and it was ordered by the Court that amount deposited under Section 19A of the Act be refunded back to the tenant-appellant. According to learned counsel for the appellant by withdrawing the amount the appellant may lose some valuable right. The apprehension of the learned counsel for the appellant is absolutely devoid of force because of fact that under Section 19A proceedings relating to default is not determined and even according to submission of learned counsel for the appellant the appellant's duty stands discharged after depositing the rent in the court and acceptance of the application or rejection of the application has nothing to do with the intention of the appellant to make payment of the rent and it also cannot be treated as affecting any right of taking benefit in a suit filed for eviction on the ground of default. If it is so then this point will be decided by the trial court after hearing the suit for eviction on the ground of default and by withdrawing the amount deposited under Section 19A by the tenant-appellant in this case will not prejudicially affect the plea of the defendant. Therefore, defendant-tenant may withdraw the above deposited amount under Section 19A.

4. It is further submitted by learned counsel for the appellant that the appellant though deposited rent of four months in this present suit before the trial court that was not given credit by the trial court. The appellant will be at liberty to point out to the learned trial court and if the trial court found that above amount deposited in the trial court in this very suit then that amount be paid to the landlord plaintiff adjusting it in the determined amount by order dated 27th July, 2001. Without prejudice to any right of the plaintiff, the plaintiff may accept this amount and withdrawn the amount from the court directly.

5. Learned counsel for the respondent submitted that respondent has allowed to take a plea that tenant has not deposited the rent validly under Section 19A. Certainly the respondent will be free to take this plea in the trial court and the trial court will decide the objection after hearing the parties.

6. Therefore, in view of the above, there appears to be no reason to interfere in the order dated 27th July, 2001. Now, the appellant-tenant may withdrawn the amount under Section 19A and the credit of deposit of four months rent be given to the appellant-tenant if it has been deposited before the trial court in this very suit.

7. If any amount of interest wrongly levied against the defendant-appellant then that will be the subject matter in the suit, which will be determined by the trial court at the time of decision of the suit.

8. With the above observations the appeal of the appellant is disposed of.

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