

Radha Devi v. Deep Narayan Mandal, 2001 PLRonline 0006 (SC)

CPC S. 10 - Rent Act - Bihar Rent Act is a special Act providing for speedy disposal of eviction suit on certain grounds enumerated therein - Rent Court is not required to go into the serious question of title otherwise the purpose of the Act would stand frustrated - respondents filed an application under Section 10 CPC for staying the proceedings in eviction suit till the disposal of the title suit filed by them in the civil court - Courts below were not justified in staying the proceedings in the eviction suit.

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2001 PLRonline 0006

Supreme Court Of India

Judges : V.N Khare, Doraiswamy Raju, JJ.

Radha Devi v. Deep Narayan Mandal

Civil Appeal No. 4126 of 2001

13.07.2001

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Order

1. Leave granted.

2. IA No. 1 of 2000 is allowed.

3. The appellant herein purchased the premises in dispute by registered sale deed on 5-12-1973. According to the appellant, she in the year 1991, let out the premises to the respondents on rent. It is alleged that a dispute arose between the appellant and the respondents when the appellant called upon the respondents to vacate the premises. It is further alleged that under such circumstances, the respondents filed Title Suit No. 71 of 1998 for declaration and partition, that the property of which they are tenants is a joint family property and, as such, they have 1/3rd share in it. Since the appellant required the

premises for her bona fide need she filed a suit for eviction of the respondents under Section 14 of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982 (hereinafter referred to as "the Bihar Act"). Subsequently, in the said eviction suit, the respondents filed an application under Section 10 CPC for staying the proceedings in eviction suit till the disposal of the title suit filed by them in the civil court. The learned Munsif allowed the said application and stayed the proceedings of the eviction suit. The appellant thereafter preferred a revision before the High Court, but the same was dismissed. It is against the said order the appellant has filed the instant appeal by way of special leave petition.

4. After we have heard the learned counsel for the parties, we are of the view that the Bihar Rent Act is a special Act providing for speedy disposal of eviction suit on certain grounds enumerated therein. Under the said Act eviction suit is required to be tried under summary procedure provided under the Act. To succeed in the eviction suit under the Bihar Rent Act the landlord is required to prove contract of tenancy between her and the tenant and also the ground on which the eviction is sought. In such a suit the Rent Court is not required to go into the serious question of title otherwise the purpose of the Act would stand frustrated. In the aforesaid view of the matter, we are of the view that the courts below were not justified in staying the proceedings in the eviction suit.

5. For the aforesaid reasons, we set aside the judgment under appeal. The appeal is allowed. The learned Munsif shall now proceed with the trial of eviction suit filed by the appellant. There shall be no order as to costs.

SS