

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 6549 of 2002

SHREE JI MAHARAJ

Appellant (s)

VERSUS

RAMGOPAL & ORS.

Respondent(s)

O R D E R

The appellant/landlord instituted a suit for eviction of the respondents/tenants from the demised premises on the ground of sub-letting. The trial court upheld their case and granted a decree of eviction. In appeal, however, the appellate court set aside the judgment passed by the trial court and dismissed the appellant's suit. The appellant's second appeal against the judgment of reversal was dismissed by the High Court in limine briefly referring to the statements of PWs.1 and 2. The High Court order dismissing the second appeal is as follows:

"Heard learned counsel for the appellant.

In view of the statement of P.W. 1 and 2 if read together, it is a clear case where the plaintiff can very well be said to have acquiesced in the alleged subletting or parting with the possession in favour of respondent no. 3. Thus irrespective of anything else even in view of this sole ground I don't find the appeal to be involving any substantial question of law requiring interference in the dismissal of the suit.

The second appeal is, therefore, dismissed."

We have gone through the statements of PWs 1 & 2.

We do not find anything in the deposition of PW 1 that could be said to be prejudicial to the appellant's case. In the deposition of PW 2 there is indeed some statement of which the respondents/tenants may try to take some advantage. But it is not something that would justify the dismissal of the appeal in this manner. We feel that the appeal raised certain questions of law that should have received a proper consideration by the High Court.

We, accordingly, set aside the High Court order and remand the matter to it for fresh a consideration of the second appeal, in accordance with law.

Let it be recorded that all contentions from both sides are expressly left open.

.....J
(AFTAB ALAM)

.....J
(R.M. LODHA)

NEW DELHI,
JULY 14, 2010
ITEM NO.106

COURT NO.12

SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 6549 OF 2002

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VERSUS

RAMGOPAL & ORS.

Respondent(s)

(With office report)

Date: 14/07/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM
HON'BLE MR. JUSTICE R.M. LODHA

For Appellant(s)

Mr. Sushil Kumar Jain, Adv.
Mr. Puneet Jain, Adv.
Ms. Eshita Barua, Adv.
Ms. Pratibha Jain, Adv.

For Respondent(s)

Mr. Pallav Shishodia, Sr. Adv.
Ms. Madhurima Tatia, Adv.
Mr. Ranbir Yadav, Adv.

UPON hearing counsel the Court made the following
O R D E R

The Civil Appeal is disposed of in terms of the signed order.

(N.S.K. Kamesh)
Court Master

(R.K. Sharma)
Court Master

(signed order is placed on the file)