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SLP(C)No. 1158 OF 2002

ITEM No.41

Court No. 5

SECTION XVII
A/N MATTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.1158/2002

(From the judgment and order dated 26/09/2000 in CR 351/99
of The HIGH COURT OF PATNA AT RANCHI)

TAPAS KUMAR LAHIRI

Petitioner (s)

VERSUS

MD. MOJAHID NAUKHEZ & ORS.

Respondent (s)

(With prayer for interim relief)

Date : 13/01/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s)

Mr. Apurb Lal, Adv.

Mr. Ashish Lal, Adv.

Ms. Sushmita Lal, Adv.

Mr. K.K. Jha "Kawal", Adv.

Mr. Rana Ranjit Singh, Adv.

For Respondent (s)

Mr. Sudama Ojha, Adv.

Dr. Maya Rao, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order. The impugned order of the High Court dated 26.9.2000 is set aside.

No order as to costs.

(P.D. Balodi)(Radha R. Bhatia)
Court Master Court Master
(The signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. /2003
[Arising out of S.L.P.(C) No.1158/2002]

TAPAS KUMAR LAHIRI...APPELLANT (S)

VERSUS

MD. MOJAHID NAUKHEZ AND OTHERS...RESPONDENT (S)

O R D E R

Leave granted.

Proceedings for eviction of tenant and sub-tenant from the suit premises were initiated by the landlord, appellant herein. The Trial Court directed the tenant to deposit the arrears of rent. For failure to comply with the order of the Court, in exercise of the power conferred by sub-section (1) of Section 15 of Bihar Buildings (Lease, Rent & Eviction) Control Act, 1982, the Court directed the defence against ejection of the of the tenant be struck off. The tenant chose to submit to the order and did not file any revision thereagainst. However, the sub-tenants filed a revision in the High Court. The High Court has set aside the order of the Trial Court striking out the defence of the tenant.

It is submitted by the learned counsel for the landlord-appellant that it was the tenant's defence against the eviction, which was struck off by the Trial Court and therefore, person aggrieved by the order of the Trial Court was the tenant, who should have preferred a revision if at all he wished to do so. The sub-tenants claim under the tenant and therefore, they would be bound by the order made against and suffered by the tenant. An order striking out the defence of the tenant could not have been interfered with and set aside by the High Court in a revision preferred by the sub-tenants.

We have asked the learned counsel for the respondents how the impugned order of the High Court is sustainable in law. Nothing has been brought to our notice which may support the order of the High Court, so far as this infirmity in the revision preferred by the sub-tenants is concerned.

For this short reason, the appeal is allowed. The impugned order of the High Court dated 26.9.2000 is set aside.

Vide order dated 26.9.2000, impugned herein, the High Court, while allowing the revision, had directed the Trial Court to dispose of the suit within a period of three months. More than two years have passed and we are told that the matter has not made any substantial or significant progress before the Trial Court and certainly the trial has not yet commenced. The Registrar of the High Court shall look into the matter and if a case of non-compliance with the orders of the High Court by a subordinate court is made out, the same shall be brought to the notice of the Hon'ble the Chief Justice.

No order as to costs.

.....J
(R.C. LAHOTI)

.....J
(BRIJESH KUMAR)
New Delhi,

January 13, 2003.