

continuing or starting his business or that of any of his major sons or unmarried daughters, if he is the owner thereof or for any person for whose benefit the accommodation is held and that the landlord or such person has no other reasonably suitable non-residential accommodation of his own in his occupation in the city or town concerned:

10. The relevant provision in the instant case, namely, Section 12(1)(e) of the Act is *pari materia* with Section 23-A(b) which was considered in *Anar Devi*'s case. The expression, "Sif he is the owner thereof" is common and identically placed. Para 18 of the decision in *Anar Devi*'s case discloses that the respondent-tenant had acknowledged the ownership of the accommodation as that of the appellant and had regarded her as the landlord in his counter notice. In the circumstances it was held that the respondent was not entitled to deny the title of the appellant to the accommodation. During the course of its judgment, this Court dealt with "Stenant's estoppel" as statutorily recognized in Section 116 of the Evidence Act and observed as under:-
"S 10. Since the doctrine of "Stenant's estoppel" could throw light on the question as to what can make a landlord to succeed in enforcing his right to recover possession of accommodation from a

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tenant under clause (b) of Section 23-A of the Act, it would be advantageous to refer to its scope and applicability, before taking it up for our consideration.

11. "SDoctrine of tenant's estoppel" which governs the relationship of landlord and tenant is founded on a contract of tenancy entered into by them, is well settled. Jessel, M.R., who adverted to that doctrine in *Stringer's Estate, Shaw v. Jones-Ford* 2 explains it thus:

"S Where a man having no title obtains possession of land under a demise by a man in possession who assumes to give him a title as tenant, he cannot deny his landlord's title, as, for instance, if he takes for twenty-one years and he finds that the landlord has only five years' title, he cannot after five years set up against the landlord the *jus tertii*, though, of course, the real owner can always recover against him. That is a perfectly intelligible doctrine. He took possession under a contract to pay rent so long as he held possession under the landlord, and to give it up at the end of the term to the landlord, and having taken it in that way he is not allowed to say that the man whose title he admits and under whose title he took possession has not a title. That is a well-established doctrine. That is estoppel by contract."

12. Indeed, the said doctrine of tenant's estoppel, finds statutory recognition in Section 116 of the Indian Evidence Act, 1872, for short "the Evidence Act", in that, it states that "No tenant of immovable property, or person claiming through such tenant, shall during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property."

13. This Court in *Sri Ram Pasricha v. Jagannath* 3, has also ruled that in a suit for eviction by landlord, the tenant is estopped from questioning the title of the landlord because of Section 116 of the Act. The Judicial Committee in *Kumar Krishna Prasad Lal Singha Deo v. Baraboni Coal Concern Ltd.* 4, when had occasion to examine the contention based on the words "at the beginning of

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the tenancyâ- " in Section 116 of the Evidence Act, pronounced that they do not give a ground for a person already in possession of land becoming tenant of another, to contend that there is no estoppel against his denying his subsequent lessorâ- "s title. Ever since, the accepted position is that Section 116 of the Evidence Act applies and estops even a person already in possession as tenant under one landlord from denying the title of his subsequent landlord when once he acknowledges him as his landlord by attornment or conduct. Therefore, a tenant of immovable property under landlord who becomes a tenant under another landlord by accepting him to be the owner who had derived title from the former landlord, cannot be permitted to deny the latterâ- "s title, even when he is sought to be evicted by the latter on a permitted ground.

14. The scope and applicability of the doctrine of â- Stenantâ- "s estoppelâ- \235 being what we have said of it, we shall now proceed to consider the aforesaid question which has arisen with reference to the right of landlord under Section 23-A(b) of the Act in the matter of recovery of possession of the accommodation from the tenant.â- \235

11. In the instant case though defendant Bhanaram in his written statement had denied ownership of the plaintiffs he went on to add, â- SThis being a suit for eviction of a tenant, the question of ownership is not relevant to the suitâ- \235. In his cross-examination he clearly admitted that the lease from Nazul Department stood in the name of the plaintiffs and that the witness himself had produced that document in some other proceedings. He had further admitted that he used to pay rent by money orders in the name of the father of the plaintiffs. On facts, it must be held that defendant Bhanaram had without any doubt regarded the plaintiffs as landlords and owners of the suit house. This matter is thus fully covered by the decision of this Court in Anar Deviâ- "s case and it was not open to defendant Bhanaram to question the ownership of the plaintiffs-landlords.

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12. In the circumstances, the view taken by the High Court while setting aside the concurrent decisions of the Courts below was not correct and justified. We, therefore, allow this appeal. While setting aside the judgment under appeal, we restore the decisions of the Trial Court and the Lower Appellate Court passed in the instant case.

13. Since respondents are in occupation of the suit house for last more than 40 years, we deem it appropriate to grant them time upto 31 st August, 2017 to

vacate and hand-over peaceful possession of the suit house to the appellants subject to the respondents filing usual undertakings within four weeks from the date of this judgment. In case no such undertakings are filed by each of the respondents within the time so stipulated, the appellants shall be free to execute the decree for eviction of the suit house.

14. The appeal stands allowed in the aforesaid terms without any order as to costs.

â- |â- |â- |â- |â- |â- |â- |â- |â- |â- |â- |J.

(C. Nagappan)

â- |â- |â- |â- |â- |â- |â- |â- |â- |â- |â- |J.

(Uday Umesh Lalit)

New Delhi,

August 09, 2016

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ITEM NO.1A
(For Judgment)

COURT NO.4

SECTION IVA

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 (C) No.9418/2011
(Arising out of impugned final judgment and order dated 20/10/2010
in SA No. 242/1989 passed by the High Court Of Chhatisgarh at
Bilaspur)

AMBIKA SAVAARIA & ORS.

Petitioner(s)

VERSUS

SANJAY SHARMA & ORS.

Respondent(s)

Date : 09/08/2016 This petition was called on for pronouncement of Judgment today.

For Petitioner(s) Ms. Ritu Puri, Adv.

Ms. Kamlakshi Singh, Adv.

Mr. Kamal Mohan Gupta, AOR

For Respondent(s)

Mr. P. Parmeswaran, AOR

Hon'ble Mr. Justice Uday Umesh Lalit pronounced the judgment of the Bench comprising Hon'ble Mr. Justice C. Nagappan and His Lordship.

Leave granted.

The appeal is allowed in terms of the signed non-reportable judgment.

(Chetan Kumar)

Court Master (H.S. Parasher)

Court Master

(Signed non-reportable judgment is placed on the file)