

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.20695/2000

(From the judgement and order dated 24/03/2000 in CR 1536/99
of The HIGH COURT OF PATNA)

RADHA DEVI

Petitioner (s)

VERSUS

DEEP NARAYAN MANDAL & ORS.

Respondent (s)

Date : 13/07/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE DORAISWAMY RAJUFor Petitioner (s) Ms. Manita Verma, Adv.
Mr. NKP Sinha, Adv.
for Ms. Hemantika Wahni, Adv.

For Respondent (s) Mr. S.B. Upadhyay, Adv.

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

Leave granted.

I.A. No. 1 of 2000 is allowed.

The appeal is allowed. There shall be no
order as to costs.

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(Alka Dudeja)
Court Master(S. Krishnan)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDCITION

Radha Devi

..

Appellant

-vs-

Deep Narayan Mandal and Ors.

..

Respondents

O R D E R

Leave granted.

I.A. 1 of 2000 is allowed.

The appellant herein purchased the premises in dispute by registered sale deed on 5th December, 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 a Title Suit No. 71/98 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 Building (Lease Rent & 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 Munsiff 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.

After we have heard the learned counsel for the parties, we are of the view that 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 was not justified in staying the proceedings in the eviction suit.

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

& & & & & & & & & J.
(V.N.Khare)

& & & & & & & & .J.
(Doraiswamy Raju)

New Delhi;
July 13, 2001

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