

ITEM NO.1

COURT NO.2

SECTION XVI

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(s). 21885/2012

(Arising out of impugned final judgment and order dated 08/11/2011
in SA No. 164/2011 passed by the High Court Of Calcutta)

BEAUTY PAUL

Petitioner(s)

VERSUS

MIRA NAG & ORS.

Respondent(s)

(With appln.(s) for C/delay in filing substitution application and
substitution and interim relief and office report)

Date : 07/04/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE ADARSH KUMAR GOELFor Petitioner(s) Mr. Pijush K. Roy,Adv.
Mrs. Kakali Roy,Adv.
Mr. Mithilesh Kumar Singh,Adv.For Respondent(s) Mr. Ranjan Mukherjee,Adv.
Mr. S.C. Ghosh,Adv.UPON hearing the counsel the Court made the following
O R D E R

Heard.

Respondent no.4 has passed away. An application for substitution of the legal heirs left behind by her has been made by the heirs to which there is no opposition. In the circumstances, delay in the making of the application for substitution is condoned, the substitution prayed for allowed and the legal representatives, mentioned in the application, brought on record in place of the deceased-respondent no.4. Cause title be amended accordingly.

Suit for ejectment from the suit property comprising two rooms, a kitchen and a bathroom situate on the ground floor of premises bearing No.21/1B, Nur Mohamad Lane at Calcutta filed by the respondents was dismissed by the trial court. Aggrieved, the plaintiffs-respondents herein preferred an appeal before the first Appellate Court which reversed the findings recorded by the trial court and held that the plaintiffs had made out a case for ejectment of the tenant-petitioner herein on the ground of bona fide requirement of the plaintiffs-landlords. The plea regarding default in payment of rent by the tenant was however negated. The matter travelled to the High Court of Calcutta in a second appeal which has been dismissed by the High Court in terms of the impugned judgment and order.

We have heard learned counsel for the parties at some length who have taken us through the orders passed by the courts below. We see no error much less any perversity in the view taken by the first Appellate Court and that taken by the High Court holding the respondents-landlords entitled to a decree for eviction of the petitioner herein from the suit premises, mentioned above. In the course of the submissions before us, Mr. Rajan Mukherjee, learned counsel for the respondents, no doubt tried to suggest that apart from two rooms, a kitchen and bathroom situate on the ground floor, the petitioner is also in possession of a room on the first floor of the premises bearing municipal no.21/1B yet since the petitioner has specifically denied that assertion and asserted that he is in occupation of only two rooms along with a kitchen and bathroom, as mentioned in the plaint, we have no difficulty in

holding that the suit and so also the decree relates only to the property mentioned in the plaint. Mr. Pijush K. Roy, learned counsel for the petitioner, also candidly conceded on instructions that the petitioner was not in possession of any other accommodation either on the ground floor or the first floor of the premises bearing no.21/1B, Nur Mohamad Lane at Calcutta or at the first floor of the adjacent premises bearing no.21/1A situate on the same lane. In the result, we dismiss the special leave petition but in the peculiar facts and circumstances of the case grant to the petitioner herein time till 31st March, 2025 to vacate the premises in his occupation, subject to the following conditions:

(1) The petitioner files in this Court an undertaking on usual terms within six weeks from today.

(2) The petitioner deposits with the trial court compensation for use and occupation of the premises in his possession at the rate of Rs.1500/- (Rupees one thousand five hundred) per month w.e.f 1st April, 2015 for the period of first five years ending 31st March, 2020. Compensation amount for the remainder of the period commencing 1st April, 2020 till the date the premises is actually vacated shall however be at the rate of Rs.3000/- (Rupees three thousand) per month. The deposit shall be made by the 10th of every succeeding calender month. Upon deposit respondents-landlords shall be free to apply to the trial court for disbursement of the amount deposited by the petitioner.

(3) In the event of any default or breach of any of the conditions stipulated above, the eviction order passed against the petitioner shall become executable forthwith.

(MAHABIR SINGH)
COURT MASTER

(VEENA KHERA)
COURT MASTER