

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.16432/2000

(From the judgement and order dated 12/01/2000 in CR 849/99
of The HIGH COURT OF DELHI AT N. DELHI)

SHANTI DEVI

Petitioner (s)

VERSUS

LAXMI DEVI

Respondent (s)

(With Appln(s). for c/delay in filing SLP and with prayer for
interim relief)

Date : 11/12/2000 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.P. MISRA
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s) Mr. Narendra Safaya, Adv.
Ms. Savita Singh, Adv.
Mrs. Santosh Singh, Adv.
Mr. J.K. Jain, Adv.
Mr. Nanak Chand Gupta, Adv. for
Mr. Randhir Singh Jain, Adv.

For Respondent (s) Mrs Lalita Kaushik, Adv. (N.P.)

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

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.SP2

Delay condoned.
Leave granted.
The appeal is allowed in terms of the signed order.

.SP1

Sarita (V.P. Tyagi) @@
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COURT MASTER@@
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(Signed order is placed on the file)

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CIVIL APPEAL NO. 7204 OF 2000@@
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(Arising out of S.L.P.(C)No. 16432/2000)

SHANTI DEVI

...APPELLANT

VERSUS

LAXMI DEVI

...RESPONDENT

O R D E R@@
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Delay condoned.
Leave granted.
Heard learned counsel for the parties.

This appeal by the tenant challenges both the orders one passed by the Rent Controller and other its approval by the High Court, where leave to defend has been refused.

The short question raised by appellant is that his case is, the premises in question is non-residential (commercial) in nature which has not been considered either by the Rent Controller or by the High Court which has a strong bearing on the outcome of the defence of the appellant. The submission is, there is evidence on record that it is a shop 8' X 10' having no latrine, no bathroom and no kitchen. Learned counsel for the respondent could not point out that this question was considered by either of the two courts. This is one of the essential aspects to be considered before rejecting the right of the tenant to defend the suit which has not been done. Accordingly, we allow this appeal, quashing the orders passed both by the Rent Controller and the High Court and remand the case back to the Rent Controller for deciding afresh after giving reasonable opportunity to the parties. The parties may appear before the Rent Controller on the 3rd January, 2001. Thereafter, the Rent Controller may proceed with the matter.

Since the matter has already taken a long time, we do observe, the Rent Controller will decide this matter expeditiously.

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.....J.
(A.P. MISRA)

New Delhi,
December 11, 2000.

.....J.
(B.N. AGRAWAL)