

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).16637/2013

(From the judgement and order dated 21/03/2013 in CRP No.380/2012 of The HIGH COURT OF GUWAHATI ,ASSAM)

MANIK CHAND JAIN

Petitioner(s)

VERSUS

MD. AHIYA

Respondent(s)

With prayer for interim relief)

Date: 08/05/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE GYAN SUDHA MISRA
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s)

Mr. L.Nageshwar Rao, Sr. Adv.
Mr. Manish Goswami, Adv.
For M/S Map & Co.

For Respondent(s)

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

Learned counsel for the petitioner submitted that the finding recorded on the issue of default results into perversity as the agreed rate of rent was Rs.700/-, on the basis of which the rent payable by the petitioner should have been calculated.

The trial court, however, determined the issue on the question of default by calculating the rent at the rate of Rs.2,400/- from 19.12.2009 (the date of the decree), which is the rate which was fixed during pendency of the suit and since then the petitioner in fact had been paying at the rate of Rs.2,400/-. Therefore, the finding on default could not have been

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recorded at the rate of Rs.2,400/- right from its inception as the rate of rent prior to 2009 was Rs.700/-only and the same could not have been calculated at the rate of Rs.2,400/- so as to record a finding that the petitioner is a defaultee.

There appears to be some substance in the contention. Hence, issue notice.

Until further orders, the decree of eviction shall remain stayed.

| (Neetu Khajuria)

| (Sneh Bala Mehra)

| Sr.P.A.

| Court Master

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