

Satya Neranjan Shaw and Another Vs The Karnani Industrial Bank, Ltd.

Court: Calcutta High Court

Date of Decision: June 19, 1925

Citation: AIR 1926 Cal 708

Hon'ble Judges: Greaves, J; B.B.Ghose, J

Bench: Full Bench

Judgement

B.B.Ghose, J.

In this rule we are asked to set aside an order of the Rent Controller fixing standard rent with regard to certain premises,

dated the 11th March 1924. The lease is dated the 7th October 1920. On the 15th August 1923 the landlords, who are the petitioners before us,

served a notice on the opposite party determining the lease on the ground, it seems, of breach of covenants in the lease. On the 10th September

1923, the petitioners brought an action in ejectment on the original side of this Court. During the pendency of the suit, on the 1st December 1923,

the opposite party applied to the Rent Controller under the Rent Act for standardization of rent. The Rent Controller fixed standard rent on the

11th of March 1924, as I have already stated. The opposite party vacated the premises on the 24th January 1924. The petitioners applied for

revision of the order of the Rent Controller to the President of the Tribunal on the 22nd March 1924. The duration of the old Rent Act expired on

the 31st March 1924. The President rejected the application of the petitioners by his order, dated the 31st January 1925, following the case of

Kundamul Dalmia and Others Vs. W. Dyer and Others, , on the ground that the new Act does not authorize him to revise the order of the Rent

Controller with regard to the premises in question. The ejectment suit on the original side of this Court was decided on the 24th April 1925 in

favour of the plaintiffs decreeing ejectment and the order of the learned Judge was that the plaintiffs were entitled to recover rent till the 15th

August 1923 when the tenancy was terminated by notice to the opposite party, and from after that date the position of the opposite party was that

of trespassers and the plaintiffs were entitled to mesne profits from the date till possession was delivered to the petitioners. With regard to the rate

of rent the learned Judge did not come to any decision but having regard to the pendency of this rule, he directed that the rent fixed by the

Controller should not be taken by him to have been finally determined as the rent payable in respect of the premises in question. The petitioners

support their application mainly upon the ground that the opposite party were not tenants on the 1st December 1923 with regard to the premises in

question and, therefore, they were not in a position to present an application for fixing standard rent u/s 15 of the Rent Act. They, therefore,

maintain that the petition was incompetent as the Rent Controller had no jurisdiction in this case to fix a standard rent and, therefore, the decision of

the Rent Controller is without jurisdiction and ought to be set aside. Their further objection was that this case does not fall within the ruling in the

case of Kundamul Dalmia and Others Vs. W. Dyer and Others, referred to above.

2. We find that the High Court in its judgment on the original side in the suit in ejectment found that the tenancy had terminated on account of the

breach of conditions in the lease on the 15th August 1923. It is contended on behalf of the opposite party that there was some sort of statutory

tenancy under the provisions of Section 11 of the Rent Act. But that section provides only for the continuance of the tenancy if the tenant performs

the conditions of the tenancy and in such a case there could not have been a decree in ejectment. As it has now been found in the suit that the

plaintiffs had legally terminated the tenancy on the 15th August 1923 it cannot be said that the opposite party continued to remain on the land as

tenants after that date. The question is not affected in the least by the fact that the decree of the High Court was passed after the order of the Rent

Controller fixing a standard rent because the decree does not terminate the tenancy. The judgment of the Court only shows that the plaintiffs were

justified in terminating the tenancy on the 15th of August 1923. That being so, the opposite party were not entitled u/s 15 of the Rent Act to make

the application for fixing the standard rent when their possession of the premises was that of mere trespassers. This question has been decided by

us recently in Civil Revision Case No. 1202 of 1924. There, on a petition for fixing a standard rent by a person whose tenancy had determined,

the decision of the Rent Controller was held to be without jurisdiction.

3. It has been contended before us by the opposite party that the petition of the landlords before the President of the Tribunal being incompetent

this Court has no jurisdiction to entertain the application for revision. But the jurisdiction of this Court is not conferred by the Rent Act. This Court

exercises its jurisdiction u/s 115 of the Civil P.C. and Section 107 of the Government of India Act, and there cannot be any doubt that this Court

has the power to revise an order passed by a subordinate tribunal without jurisdiction in the exercise of its revisional powers. That being so, the

order of the Rent Controller must be set aside.

4. In this view, it is not necessary for us to say whether this case falls within the ruling of Kundamul Dalmia and Others Vs. W. Dyer and Others, .

5. The petitioners are entitled to their costs of this rule. We assess the hearing-fee at five gold mohurs.

Greaves, J.

6. I agree.