

Sree Sree Iswar Radha Gobinda Jieu and Others Vs Sm. Molina Bala Dasi and Others

Court: Calcutta High Court

Date of Decision: March 18, 1949

Judgement

Sen, J.

This Rule has been obtained by the landlord and it arises out of an application made under sec. 47 of the Presidency Small Cause

Courts Act which has been allowed. The application under sec. 47 of the aforesaid Act was made by a subtenant and not by the tenant against

whom the proceedings under sec. 41 of the aforesaid Act were taken by the landlords. It is now well-settled law that a sub-tenant who was not a

party to the proceedings has no right to apply under sec. 47. See the case of Gangaram Bhar v. Santosh Kumar Mitra 53 C.W.N. 187 (1948).

Learned Advocate appearing for the Opposite Parties contends that having regard to certain provisions of the West Bengal Premises Rent Control

(Temporary Provisions) Act, 1948 a sub-tenant has been given certain rights, that a sub-tenant is deemed to be a tenant for certain purposes and

therefore the decision cited above is no longer good law. There is no substance in this contention. The West Bengal Premises Rent Control

(Temporary Provisions) Act does not state that the provisions of sec. 47 of the Presidency Small Cause Court Act has no further application. As a

matter of fact, it does not touch sec. 47 of the Presidency Small Cause Courts Act. This is a section giving certain rights to a particular class of

persons, namely, persons who have been proceeded against under sec. 41 of the Presidency Small Cause Courts Act and to no others. There is

nothing in the West Bengal Premises Rent Control (Temporary Provisions) Act which extends these powers to sub-tenants.

2. The Rule is accordingly made absolute with costs.