

Tarak Pada Kirti Vs Sashi Probha Debi and Others

Court: Calcutta High Court

Date of Decision: July 31, 1950

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Section 47

Citation: 55 CWN 65

Hon'ble Judges: Sen, J; Chunder, J

Bench: Division Bench

Advocate: Bijan Behari Das Gupta in No. 16, Rabi Ranjan Das Gupta in No. 17, Syama Charan Mitter in No. 24 and Ajay kumar Basu in No. 46, for the Appellant; Paresh Nath Mukherjee and Chandra Nath Mukherjee, for the Respondent

Final Decision: Dismissed

Judgement

Chunder, J.

These four appeals arise out of an order of the Subordinate Judge, First Court, Alipore, dismissing the applications of four

persons who claimed to be sub-tenants of the Opposite Party landlord Sm. Sashi Prava Debi. It is not disputed that one N.C. Bose was the tenant

of Sm. Sashi Prova Debi with regard to premises No. 118A, Ashutosh Mukherjee Road and the applicants took sub-leases under him of the

different portions of the same premises. The Opposite Party landlord obtained a decree against N.C. Bose under the Rent Ordinance of 1946 on

the 20th July, 1948. The decree was put into execution on the 29th July, 1948, but remained stayed for a time, the stay order ceasing to have

operation; the decree was again brought into execution. On different dates between January and November, 1949, these Appellants applied

against the order of delivery of possession to the landlord claiming that under sec. 11 (3) of the new Act of 1948, that is, the West Bengal

Premises Rent Control (Temporary Provisions) Act, 1948, these Appellants had become direct tenants of the landlord on the ejectment of N.C.

Bose, the previous tenant. It has already been held by my learned brother Sen, J., in the case of Brojendra Kumar Goswami v. Moslem Ali Molla

AIR 1949, Cal. 610 that sec. 11 (3) of the Act of 1948, has no retrospective operation. The question has been dealt with at length by him in that

decision and I fully and wholly concur with his view. When the ejectment decree was passed both the tenancy and the sub-tenancy came to an

end. Sec. 11 (3) of the Act of 1948 has no retrospective operation. These sub-tenancies cannot be revived so as to enable the previous sub-

tenants to take the benefit of the new Act.

2. The Subordinate Judge, therefore, rightly dismissed all the applications filed under sec. 47 of the CPC against execution of the decree for

possession though he decided them on a different ground.

3. These four appeals are, therefore, dismissed with costs--one set of hearing-fee for all these four appeals.

4. Let the record be sent down as early as possible.

Sen, J.

I agree.