

(1950) 07 CAL CK 0023

Calcutta High Court**Case No:** Appeal from Original Orders No's. 16, 17, 24 and 46 of 1950

Tarak Pada Kirti

APPELLANT

Vs

Sashi Probha Debi and Others

RESPONDENT

Date of Decision: July 31, 1950**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - 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.