

(1957) 11 CAL CK 0013**Calcutta High Court****Case No:** Civil Revision Case No. 2286 of 1957

Md. Qasim APPELLANT

Vs

Sayed Md. Ahsan and Others RESPONDENT

Date of Decision: Nov. 19, 1957**Acts Referred:**

- West Bengal Premises Tenancy Act, 1956 - Section 16(3), 29, 42

Citation: 62 CWN 47**Hon'ble Judges:** Guha, J; Das Gupta, J**Bench:** Division Bench**Advocate:** Noni Coomar Chakravarty, for the Appellant;

Judgement

Das Gupta, J.

The Rent Controller, Calcutta, having dismissed an application of the present petitioner for a declaration u/s 16(3) of the West Bengal Premises Tenancy Act, 1956 of his tenancy right under Messrs. Skin Traders, opposite party No. 3, he filed an appeal under the provisions of section 29 of the Act, Rule 23 of the rules framed u/s 42 of that Act provided that the court-fees payable on a memorandum of appeal u/s 29 shall be such as is provided in Article 1 of schedule 1 to the Court-fees Act, 1870. The learned Chief Judge in whose court the memorandum of appeal was filed, rejected the petitioner's contention that Rule 23 was not applicable to this case and further held that there was an objective standard for assessing the value of the relief claimed by him and that this was twelve times the monthly rent of Rs. 250/- He directed the appellant to pay ad valorem court-fees on a sum of Rs. 3,000/-. On behalf of the petitioner Mr. Chakravarty does not contend before us that the rule 23 is not applicable. His contention is that when a sub-tenant like the present petitioner wants a declaration of a right of tenancy, it is not correct to say that there is any objective standard of the value of the right claimed and that consequently the tenant petitioner should be free to value his reliefs as he thinks fit.

2. In my judgment this contention should prevail. It is quite true that a tenancy right has a definite value and there is an objective standard of that value. If a person whose right to a tenancy is disputed, is claiming declaration of his tenancy right, that right can be valued objectively, and ordinarily, an objective standard of twelve times the rent may be a correct valuation. Where however, the person is already a tenant in respect of the premises, though a sub-tenant, and that sub-tenant applies for a declaration that the tenant's interest in the part of the premises that has been sublet shall cease, and that the subtenant shall become the tenant directly under the landlord, I do not think it reasonable to say that this change in the nature of the tenancy, namely, from a sub-tenancy under an intermediate tenant to a tenancy under the landlord, can be valued objectively.

3. I would, therefore, set aside the order of the learned Chief Judge assessing the value of the subject matter of the appeal at Rs. 3,000/- and direct that the petitioner's valuation of the appeal at Rs. 250/- be accepted as sufficient. The Rule is accordingly made absolute. There will be no order as to costs.

Guha, J.

I agree.