

Ram Saran Misra Vs Harinarayan Dutta

Court: Calcutta High Court

Date of Decision: July 30, 1970

Acts Referred: West Bengal Premises Rent Control (Temporary Provisions) Act, 1948 " Section 18
West Bengal Premises Tenancy Act, 1956 " Section 17, 17(2), 17(2A), 17(2B)

Citation: (1971) 2 ILR (Cal) 71

Hon'ble Judges: Chittatosh Mookerjee, J

Bench: Single Bench

Advocate: K. Mukherjee, for the Appellant; S. N. Banerjee, for the Respondent

Judgement

Chittatosh Mookerjee, J.

The opposite party to this Rule has instituted a suit against the present Petitioner in the Second Court of the

Munsif for eviction from a premises which the Petitioner had been occupying as a monthly tenant. The case of the Plaintiff opposite party is that the

Defendant Petitioner was a defaulter in payment of rent since November 1965 and that he was not entitled to any protection under the provisions

of the West Bengal Premises Tenancy Act, 1956. On October 3, 1966, the summons of the said suit was served upon the Defendant Petitioner.

Thereafter, he had entered appearance in the said ejectment suit. But he did not deposit or pay within one month from the date of the service of the

writ of summons on him an amount calculated at the rate of rent at which it was last paid for the period which he might have made default. He also

did not within the time specified in Sub-section (2) of Section 17 of the West Bengal Premises Tenancy Act make any application to the trial Court

for determination of the rent payable.

2. On August 26, 1967, the West Bengal Ordinance VI of 1967 was published in the Official Gazette. By the said Ordinance Sub-sections (2A)

and (2B) were inserted in Section 17 of the West Bengal Premises Tenancy Act, 1956. It is unnecessary for our present purpose to refer to other

amendments to the provisions of the West Bengal Premises Tenancy Act, 1956, which was effected by the said Ordinance VI of 1967.

Subsequently, West Bengal Act IV of 1968 was enacted which also contained the said amended provisions of Section 17(2A) and Section

17(2B). It may be noted that the West Bengal Legislature, has re-enacted the said West Bengal; IV of 1968 with modifications as the West

Bengal Act XXX of 1969.

3. On November 4, 1967, the Petitioner had filed an application in the trial Court purported to be u/s 17 of the West Bengal Premises Tenancy

Act read with Sub-sections (2A) inserted by the West Bengal Ordinance VI of 1967. The Petitioner stated that he had defaulted in payment of

rent from January 1967, and he now wanted to pay the said arrears of rent by installments. He, accordingly, prayed that necessary orders be

passed for payment of the arrears by installments as provided under the aforesaid Ordinance. In my opinion, the learned Munsif has rightly rejected

the said application as not maintainable. The Sub-sections (2A) confers a power upon the Court to make an order to extend the time for deposit

or payment of the amount referred to in Sub-sections (1) and (2) of Section 17 and also to permit the Defendant tenant to pay in instalment the

sum which is required to be deposited or paid under said Sub-sections (1). But Sub-section (2B) of Section 17 clearly lays down that no such

application for extension of time to deposit or pay or permission to pay instalment under Clauses (a) and (b) of Sub-section (2A) shall be

entertained unless the same is made before the expiry of the time specified therefore in Sub-section (1) or Sub-section (2) as the case might be.

4. In view of the clear language of the statute, in my opinion, there is no place for any other interpretation or construction as the words of the

statute do not admit of any other meaning. In Craies on Statute Law (6th ed., 1963, p. 65) the following passage occurs:

As Scott L.J. said: "'Where the words of an Act of Parliament are clear, there is no room for applying any of the principles of interpretation which

are merely presumption in cases of ambiguity in the statute.'" Again Averted M.R. said: "'I prefer to avoid exegesis of the statutory language unless

they are absolutely necessary: for the result would otherwise tend thereafter to substitute for the problem of construction of parliamentary language

the problem of the construction of the judgments of the Courts.

5. Mr. Mukherjee has submitted that the intention of the Legislature was to give protection to all tenants who might have committed default

whether before or after the enactment of the Ordinance VI of 1967. According to Mr. Mukherjee, the amendments made by Ordinance VI of

1967 was expressly given effect in respect of suits and appeals pending at the date of the commencement of the said Ordinance. Mr. Mukherjee

contended that in the instant case the time limit prescribed by Sub-sections (2B) can have no application because the writ of summons was served

upon the Petitioners on October 3, 1966, and in his case an application under Sub-section (2A) if made within one month from the date of the

commencement of the Ordinance VI of 1967 would be maintainable.

6. In my view, the clear language of the statute is that an application under Sub-sections (2A) for extension of time or for instalment cannot be

entertained unless it is made before the expiry of the time specified. Therefore, it is not possible to speculate on the possible intention of the

Legislature. Craies on Statute Law (6th ed., p. 66) has stated:

The cardinal rule for the construction of Acts of Parliament is that they should be construed according to the intention expressed in the Acts

themselves. The Tribunal that has to construe an Act of a Legislature, or indeed any other document, has to determine the intention as expressed

by the words used. And in order to understand these words it is natural to inquire what is the subject-matter with respect to which they are used

and the object in view. In *Barnes V. Jarvis*, Lord Goddard C.J. said: "A certain amount of common sense must be applied in construing statutes.

The object of the Act has to be considered." If the words of the statute are themselves precise and unambiguous, then no more can be necessary

than to expound those words in their ordinary and natural sense. The words themselves alone do in such a case best declare the intention of the

law-giver.

Where the language of an Act is clear and explicit, we must give effect to it, whatever may be the consequences, the words of the statute speak the

intention of the Legislature.

7. In my opinion, that the learned Munsif has correctly found that the application made by the present Petitioner for allowing him to pay the arrear

rent by instalment was not maintainable. The view that I have taken in this case supported by the decision of the Division Bench of this Court in

Parekh Brothers v. Kartick Chandra Saha and Ors. A.I.R. 1968 Cal. 532 which has been cited by Mr. Banerjee, the learned Advocate for the

opposite party. Their Lordships observed that:

Mr. Ghosh made a verbal prayer on behalf of his client that, should we hold the Appellant guilty of default, we should permit the Appellant to

deposit the outstanding arrears of rent, if any, by a date fixed by this Court. In our opinion, application for extension of time for the deposit of

payment of any amount has to be made before the expiry of the time specified therefore in Sub-sections (1) or in Sub-sections (2) of Section 17.

Since there was no such application for extension of time, the Appellant is not entitled to any extension for this purpose. Indeed, this Ordinance has

been framed in such a manner that a very few tenants can derive any benefit from it. It is not for us to speculate about the reasons as to why the

Ordinance was drafted in this manner. It is enough for us to say that, having regard to the form of the Ordinance, we do not see how the Appellant

can invoke this" Ordinance for protection against the effects of defaults committed by the Appellant.

8. The observations of Das J. in Sm. Nagendra Bala Hore and Another Vs. Sree Sree Iswar Dakhina Kalimata Thakur, regarding the effect of

Section 18 of the West Bengal Premises Rent Control Act, 1948, also support the view taken by the trial Court. I respectfully agree with the views

expressed in the aforesaid two reported decisions.

9. In the above view, I discharge the Rule but make no order as to cost