

Manoranjan Dey and Others

Vs

Binoy Krishna Pal and Bros. and Others

Civil Appeal No. 1534 of 1970

(V. R. Krishna, Iyer, Jaswant Singh JJ)

11.03.1977

JUDGMENT

KRISHNA IYER, J. –

1. The short point arising in this appeal by the landlord-appellant who win in three courts, including before the learned single Judge of the High Court, but lost before the Division Bench on the single question is as to whether the notice to quit is valid. We have heard arguments at length from both sides and we are satisfied that the learned single Judge was right in holding that in the circumstances of the case notice to quit is in full compliance with the law.

2. Even so, having regard to the fact that the respondent has been doing business for some years now in the shop which is the subject matter of eviction proceedings, we direct that the appellant-landlord will not recover possession from the tenant-respondent until the end of December, 1977. Counsel for the respondent undertakes, on behalf of his client, that he will surrender possession by the end of the year 1977. Counsel for the appellant gives a further undertaking to this Court that in case any part of this building, reconstructed or otherwise, is let out or to be let out, the first option shall be that of the respondent to be the tenant and only if the tenant respondent declines to have the tenancy of the premises so offered on payment of fair rent as provided under that Act, will any part of the premises be let out to any one else. The respondent further undertakes that so long as his possession is not interfered with or the walls or roof of his shop damaged, he will not obstruct or object to the reconstruction. We record these undertakings. We allow the appeal, subject to the modification indicated above regarding the recovery of possession already indicated. Parties will bear their costs throughout.

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