

Lakhan Rai

Vs

Ram Kumar Aggarwal

Civil Appeal No. 2052 of 1977

(V. R. Krishna Iyer, Jaswant Singh, A.D. KoshalJJ)

30.11.1978

JUDGMENT

KRISHNA IYER, J. -

1. The short point raised in this appeal by special leave is as to whether payment of rent within one month of the receipt of the notice by the landlady demanding payment of arrears of rent, which had fallen due for three months or more, has been made. If no such payment has been made, the decree for eviction which the High Court has approved in appeal must stand. If such payment has been made, the appeal deserves to be allowed.

2. So the question is whether payment has been made. There is no dispute that deposit of the rent for the period of four months, which is the period in arrears, has been made into court under Section 7-C of the U.P. (Temporary Control of Rent and Eviction) Act, 1947 within three days of the issuance of the notice by the landlady. Then the question to be considered is whether the deposit into court is equal to payment to the landlady in terms of Section 7-C. This depends in turn on the expression of willingness by the landlady to receive payment of the rent from the tenant. We have been taken through the notice of demand issued by the landlady and there is nothing to signify any such willingness. In this view, the High Court was in error in coming to the conclusion that the deposit into court was not tantamount to payment to the landlady. The appeal has to be allowed, and we do so, but, in the circumstance of the case, parties will bear their costs throughout.

3. Shri Goburdhan at the end of his submissions did try to make out a case that the landlady had bona fide need to evict the tenant. But, this is a ground which has not been alleged or proved and cannot be considered in this appeal. All that we can say is that if there is such a bona fide requirement within the meaning of the Act, it is open to the landlady to file a fresh petition for eviction and the present order by this Court will, in no way, stand in the way of the landlady starting such proceedings which certainly will be considered on its merits by the court.

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