

Shantimoy Das

Vs

Indu Bhushan De and Others

Civil Appeal No. 276 of 1974

(V. R. Krishna Iyer, R. S. Pathak, O. Chinnappa Reddy JJ)

06.08.1980

JUDGMENT

KRISHNA IYER, J. –

1. Having heard Mr. Ghosh for the appellant we are satisfied that the submission which merits consideration is as to the time that we should grant to him for vacating the premises, having regard to the circumstance that he has been in long possession and he has continued in possession by resourceful litigation since 1964. Shri Majumdar counters the submission for time because rents are in arrears and the appellant has been clinging to possession far too long.

2. We have addressed ourselves to the rival submissions and feel satisfied that if the appellant gives an undertaking within one month from today containing two conditions, violation of which will involve instant eviction and proceedings for breach of undertaking, he will be given a period of one year from today, that is up to August 6, 1981 for vacating possession.

The conditions are :

(a) That he will within three months from today deposit in the trial Court the entire arrears of rents and continue to pay rent for every month by the 15th of the succeeding month;

(b) That he will give vacant possession on or before the date we have fixed and see that he will not alienate or otherwise put in possession of the premises or part thereof any person other than himself.

3. In case the undertaking is not filed in time or if any of the conditions in the undertaking is broken then there will be instant eviction. Subject to these conditions and filing of the undertaking we dismiss the appeal.

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