

Ganapati Sitaram Balvalkar and Another

Vs

Waman Shripad Mage (since dead) through Lrs

Petition for Special Leave to Appeal (Civil) No. 5086 of 1981

(A.D. Koshal, A.N. Sen JJ)

10.08.1981

ORDER

KOSHAL, J. –

1. The matter is concluded by the dictum of four Judges in *Jai Singh Murarji v. Sovani (P) Ltd.* [AIR 1973 SC 772 : (1973) 1 SCC 197 : (1973) 2 SCR 603], to the effect that the transfer of a tenancy after it ceases to be contractual is not permissible under the Bombay Rent Act. This proposition is not controverted by Mr. Lalit, learned counsel for the petitioners, whom we have heard at length. His main contention, however, is that a dissenting note has been struck by a Bench of three Judges in *Damadilal v. Parashram* [1976 Supp SCR 645 : (1976) 4 SCC 855 : AIR 1976 SC 2229]. We do not agree. The case cited last did not arise under the Bombay Act but interpreted the provisions of a Madhya Pradesh legislation in regard to landlords and tenants. We may further state that the case first noted is a four-Judge decision and is binding on a Bench of three Judges. No question of any dissent such as has been referred to by Mr. Lalit, therefore, arises. *Jai Singh* case [AIR 1973 SC 772 : (1973) 1 SCC 197 : (1973) 2 SCR 603] holds the field till today insofar as the Bombay Rent Act is concerned and we are bound by it.

2. In these circumstances we dismiss the petition for special leave.

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