

Hukumchand Amolikchand Logde

Vs

Madhava Balaji Potdar and Another

Civil Appeal No. 788 of 1982

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

31.01.1983

ORDER

1. Petition for special leave to appeal against the decision of the High Court was granted. Ex parte ad interim stay of execution was granted subject to notice of motion being taken. The matter is listed today for confirmation of ex parte ad interim stay.
2. Mr S. B. Bhasme, learned council for the respondents, fairly conceded that the High Court was in error in not examining the revision petition of the appellants on merits on the short ground that the appellants had failed to deposit the rent. This was an untenable ground and it was so conceded by Mr Bhasme. Revision petition once admitted has to be disposed of on merits. The High Court was in error in dismissing the revision petition on account of failure of the appellants to deposit some rent which had become due. therefore, the order of the High Court dismissing the revision petition is liable to be set aside. It is no use keeping the matter pending here. Therefore, we set aside the order of the High Court dismissing the revision petition of the appellants and remit the matter to the High Court to hear the revision petition on merits as early as possible. On account of the very fair attitude adopted by Mr Bhasme, learned counsel for the respondents, we make no order as to costs.

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