

M/s. Laxmi Narain Gauri Shankar

Vs

Gopal Krishna Kanoria Alias Gopi Krishna and Another

Civil Appeal No. 2772 of 1980

(V. Khalid, Ranganath Misra JJ)

11.11.1986

JUDGMENT

RANGANATH MISRA, J. -

This appeal by special leave is by the tenant (defendant 1) - a firm and its managing partner and is directed against a decree of eviction granted by the trial court and upheld in appeal by the District Judge and the High Court.

2. Eviction from the premises was asked for on three grounds : (1) personal necessity, (2) sub-letting to respondent 2 and (3) material damage caused to the building by the sub-tenant. All the courts have negated the plea of personal necessity as also sub-letting as valid grounds for eviction but the suit has been decreed on the third ground.

3. It has been found as a fact that in a compromise between the plaintiff and defendant 1, the tenant was given liberty to induct a sub-tenant at its discretion. Defendant 2 was inducted by the tenant in terms of the authority in the compromise terms but as the High Court has clearly found there was no privity between the landlord and the sub-tenant. The courts below had relied upon the tenant's suit against the sub-tenant on the ground of damage to the premises on various scores and the plaint of that suit (Ex. 3) was utilised as containing an admission in that regard.

4. We agree with the High Court that in the facts of this case, particularly when there was no privity between the landlord and the sub-tenant, the obligations of the tenant as a lessee of the premises both in law as also on the basis of contract to maintain the premises in good condition and to deliver the premises back to the landlord at the end of the tenancy in good state remained unaffected. The tenant became responsible for wrongful acts of his sub-tenant and in an action under Section 11(b) of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1947, the same could be used as a ground for eviction.

5. There is no merit in the stand taken by the tenant-appellant and the appeal has thus to fail and is dismissed with costs throughout.

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