

Supdt., R. M. S., 'W' Baroda and Others,

Vs

Govindbhai J. Patel

Civil Appeal No. 1200 of 1973

(V. B. Eradi, G. L. Oza JJ)

19.02.1987

ORDER

1. Heard learned counsel for the appellants and the respondent. A building belonging to the respondent was leased out to the appellants for five years in 1943, on a monthly rent of Rs. 125. Thereafter, an order of requisition was made in 1959 and Civil Judge, Senior Division, Baroda was appointed arbitrator to fix the reasonable compensation for occupation. The arbitrator went into the question and held that since the building was leased out in 1943 for Rs. 125 per months and the same amount was being paid till 1959, Rs. 125 would be a reasonable amount and fixed that amount as compensation for occupation. Aggrieved by this order the respondent before us moved the High Court of Gujarat by filing an appeal. The High Court set aside the order of the arbitrator and directed him to consider the matter afresh. By the time the matter went back, the Civil Judge, Senior Division, who had earlier decided the matter, had been transferred. He declined to go into the question because according to him he had become functus officio. The respondent moved the High Court again seeking appropriate orders so that the same arbitrator could proceed with the work. A Division Bench of the High Court accepted this request and directed the same arbitrator to proceed with the arbitration, despite his transfer to Narol and dispose of the matter expeditiously. The matter went back and the arbitrator this time fixed the rent of Rs. 917.90 exclusive of municipal and local taxes by award dated August 29, 1972. This was challenged by the appellants by filing an appeal before the High Court. The High Court did not accept the challenge and the Division Bench of the High Court by its order dated January 24, 1973 dismissed the appeal limine. This civil appeal has been filed by the appellants by special leave against the order the dismissal by the High Court.

2. The building has now been vacated. The amount deposited by the appellants has been recovered by the respondent on security. The interest amount alone has to be deposited. We are not satisfied that there is anything for this Court to consider now in this appeal to exercise our discretionary jurisdiction under Article 136 of the Constitution. This appeal has only to be dismissed. We do so, with costs.

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