

Desh Raj and Others

Vs

Avtar Krishna and Another

Civil Appeal No. 1095 of 1987

(Ranganath Misra, G. L. Oza JJ)

23.04.1987

ORDER

1. Special leave granted.

2. This Court has suggested a settlement between the landlord and the tenant keeping the special features of this case in view. We are happy that learned counsel for both the sides as also their clients have ultimately realised that the attitude of live and let live should be accepted. A compromise has now been reached. They agree that proceedings should now be disposed of with the following directions :

(1) The disputed premises shall be divided in such a manner that from the frontage the landlord will be entitled to one foot more than what would be allotted by the tenant. It is stated by Mr. Thakur for the tenant that the frontage is 16 ft. including the staircase while learned counsel for the landlord states that the total frontage is 14 ft. 3 inches. We direct the trial court to either by himself or through a Commissioner have the property measured and make the allocation as indicated in our order of today. After the frontage has been measured, the two portions shall be appropriately demarcated.

(2) The staircase which is on the front side shall be removed into the side lane. We notice the fact that the Municipality is not a party to the proceedings and is not before us. Since we have been told that the width of the lane is about 8 ft., we see no reasonable objection to this arrangement particularly when the lane is not a motorable one. We except the Municipality to give the necessary permission for the shifting. The trial court either by himself or through the Commissioner will supervise the shifting. The costs shall be borne by the tenant.

(3) The rent with effect from May 1, 1987 shall be enhanced to Rs. 150 per month and would be payable by the 7th of the succeeding month.

(4) The tenancy now created under this compromise shall remain effective till the present tenant of any existing person who come within the definition of tenant under the Act is alive.

3. The trial court will take reasonable steps to see that the partition as also the shifting of the staircase are done as early as possible, at any rate not later than six months from today.

4. This order of today will modify the orders in all the proceedings either before this or other courts.

5. The appeal is accordingly disposed of with the aforesaid directions.

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