

Smt. Draupadi and Others

Vs

Gorakhnath Gupta and Others

Civil Appeal No. 1276 of 1988

(CJI, R.S. Pathak, S. Natarajan, M.N. Venkatachaliah JJ)

30.03.1988

ORDER

1. Special leave granted.

2. The amount lying in excess with the landlord was admittedly part of the tenant paid originally by the tenants at the higher rate. The tenants did not pay the rent due for February and March 1966. There is no dispute that the amount lying in excess would cover the amount due to way of rent for those two months. It is also not in dispute that the tenants have been the rent regularly ever since.

3. In the circumstances, we allowed the appeal, set aside the judgments and orders of the High Court and of the courts below and dismiss the suit for eviction. We may observe that we do not think it necessary in this particular case to consider the operation of the provisions of sub-sections (2) of Section 8 of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1977.

4. The appeal is disposed of accordingly. There is no order as to costs.

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