

Premchand Ranka

Vs

A. Vasanthraj Khatod and Others

Civil Appeal No. 1367 of 1991

(P. B. Sawant, K. Jagannatha Shetty JJ)

27.03.1991

ORDER

1. Special leave granted.

2. It is true that all the courts have held that the appellant is a wilful defaulter although he has paid the arrears in lump sum. But the fact remains that the payment made in lump sum has been accepted by the landlord and this method of payment went on for quite a long time. In the circumstances we do not think that there is wilful default on the part of the tenant. The finding of the courts below the seems to be too technical.

3. We, therefore, set aside the eviction order. We also direct that the appellant-tenant shall pay all the arrears, if any, up-to-date within a month from today and also pay the rent hereafterwards regularly months by months. The appellant however shall pay the costs of the respondent which we estimate at Rs. 3000.

4. The appeal is allowed accordingly.

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