

**SUPREME COURT OF INDIA**

Jarnail Singh

Vs.

Ramesh Kumar

C.A.No.7192 of 2008

(Tarun Chatterjee and V.S.Sirpurkar JJ.)

08.12.2008

**ORDER**

1. Leave granted.
2. This appeal is directed against the order dated 9th of July, 2007 passed by the High Court of Judicature of Rajasthan at Jodhpur in S.B. Civil Misc. Appeal No. 1101 of 2007, whereby the High Court had allowed the appeal of the respondent in part.
3. The question that was raised before the High Court was that what was the rate of rent in respect of the shop room, which is in occupation of the tenant for more than 20 years, who was paying at the rate of Rs. 250 per month to the landlord. The suit was filed before the Court of the Additional District Judge, Sriganganagar, Rajasthan for a decree for eviction of the tenant in respect of the shop room and also for arrears of rent amounting to Rs. 1,08,000/- and payment of rent @ Rs. 3000 per month during the pendency of the suit.
4. It was the defence of the appellant that he had paid rent of the shop room at the rate of Rs. 250 per month. It was also the case of the appellant that he had not executed any rent agreement in favour of the landlord/respondent. The Additional District Judge, Sriganganagar determined the rate payable by the appellant in respect of the shop room at the rate of Rs. 250 per month and calculated the total arrears of rent as Rs. 14963.90. A Misc. Appeal was filed by the appellant before the High Court of Rajasthan at Jodhpur, which was disposed of by the High Court by the impugned order by allowing the appeal in part and remanding the case back to the Additional District Judge to determine the rate of rent of the shop room. But the High Court, at the same time, directed the appellant to pay at the rate of Rs. 3000 per month till such determination was made.
5. Feeling aggrieved by this order, the tenant is in appeal before us. We have heard the learned counsel for the parties and considered the materials on record. In our view, interference in the exercise of our power under Article 136 of the Constitution is not warranted in the facts and circumstances of the present case. On the question viz. whether the rate of rent would be at the rate of Rs. 250 per month or Rs. 3000 per month and since the

High Court has directed an order of remanding the case back to the trial Court to determine the rate of rent, we are of the view that the High Court was justified in directing the tenant/appellant to pay rent of the shop room at the rate of Rs. 3000 per month till the final determination is made by the trial Court.

6. However, we make it clear that the directions made by the High Court to pay rent at the rate of Rs. 3000/- per month is purely provisional and such determination by the High Court shall not influence the trial Court from coming to a conclusion that the rate of rent is Rs. 3000/- per month. It will be open to the trial Court to determine the rate of rent on consideration of the evidence on record adduced by the parties and thereafter, direct the tenant to deposit the same in terms of such determination.

7. With these observations, this appeal is disposed of. There will be no order as to costs.