

SUPREME COURT OF INDIA

Indian Bank

Vs.

Nippon Enterprises South & Ors.

C.A.No.5610-5611 of 2011

(Kurian Joseph and R.F.Nariman,JJ.)

17.02.2016

JUDGMENT

Kurian Joseph,J.

1. The short issue to be decided in these appeals is whether the appellant, who has been successful in the SARFAESI proceedings against the owner of the secured assets, automatically can have the same say as against the tenant in the premises.

2. That issue has been considered in the various Judgments of this Court and the latest one is in "*Vishal N. Kalsaria Vs. Bank of India & Ors*'." in CrI. Appeal No. 52 of 2016 decided on 20.01.2016, reported in and at paragraph 30, this Court has observed as under :-

"It is a settled position of law that once tenancy is created,, a tenant can be evicted only after following the due process of law, as prescribed under the provisions of the Rent Control Act. A tenant cannot be arbitrarily evicted by using the provisions of the SARFAESI Act as that would amount to stultifying the statutory rights of protection given to the tenant"

3. In view of the above, these appeals are dismissed. However, we make it clear that the dismissal of these appeals shall not stand in the way of the appellant-Bank taking recourse to any remedy under any law for evicting the first respondent.

No costs.

¹(2016) 1 SCALE 0172