

Chuni Lal vs Ved Prakash on 14 March, 1984

Equivalent citations: 1984(1)SCALE527, 1984SUPP(1)SCC339, 1984(16)UJ438(SC), AIRONLINE 1984 SC 10

Bench: A.N.Sen, D.A. Desai

ORDER

1. This particular appeal has a chequered history. By special leave granted by this Court the appeal was admitted in 1971. It was called out for hearing on August 14, 1973. The Court proceedings show that on that day Mr. Man Mohan Nath, Adv. on record was not present and the court dismissed the appeal for default. It appears that subsequently, the appellant filed C.M.P. No. 7810/73 for restoration of appeal to file and by an order dated 19.9.1973, his request was granted and the appeal was restored to file. Since then nearly 11 years have rolled by. The appeal was called out today but Mr. Man Mohan Nath, Adv. on record was not present. We resolved not to undertake the futile exercise of dismissing the appeal for default and wait for application for restoration.

2. In order to acquaint ourselves about the facts of the case, we requested Mr. T.S. Arora, counsel appearing on behalf of the respondent to tell us the facts, acquaint us with the evidence and the finding. Mr. Arora pointed out that the appellant is a landlord and he sought eviction inter alia on the ground that the deceased respondent was allotted Government premises as he was a Govt. servant and therefore landlord is entitled to recover possession of the demised premises. Mr. Arora pointed out that this was the allegation in 1956. Nearly 28 years have rolled by since then. The most unfortunate event of which we must take note is that the respondent tenant is dead and therefore the allotment of premises to the deceased tenant as Government servant would have hardly any impact on the outcome of this appeal. Learned Single Judge of the High Court who reversed the finding of the Rent Control Tribunal has observed that 'looking at the case from all the aspects and finding that the judgment under appeal sustains eviction only on the basis of the provisions of Clause (h) of the proviso to Sub-section (1) of Section 14 of the Act' he disagreed with the view taken by the Rent Controller and Rent Control Tribunal and accepted the appeal of the deceased tenant and set aside the decree for eviction. We are in full agreement with this observation. Therefore, this appeal fails and is dismissed but with no orders as to costs.