

Supreme Court of India

Jitendra Prasad Nayak vs Anant Kumar Sah And Anr. on 1 December, 1997

Equivalent citations: JT 1998 (8) SC 11, (1998) 9 SCC 383

Bench: J Verma, G Nanavati, B Kirpal

ORDER

1. Leave granted.

2. Admittedly, a cross-objection was filed by the appellant-landlord against the rejection by the first appellate court of the existence of one of the two grounds of eviction. However, while deciding the appeal of the respondent-tenant in his favour against the decision of the first appellate court on the other ground, the existence of the cross-objection appears to have been missed by the High Court with the result that there is no decision given on the cross-objection. The impugned judgment cannot, therefore, be sustained inter alia for this reason. We are also of the opinion that the question relating to existence of the ground of bona fide need which has been decided in favour of the tenant requires a fresh determination by the High Court along with the other point relating to default in payment of rent which was the subject-matter of cross-objection.

3. Accordingly, the appeal is allowed. The impugned judgment of the High Court is set aside. The High Court would now proceed to decide afresh in accordance with law the tenant's appeal and the landlord's cross-objection filed therein which would require a fresh decision by the High Court on both the grounds of eviction. The High Court is to render the decision after hearing both sides on the appeal as well as the cross-objection.