

Supreme Court of India

Rajnikant Ganapatram Bhatt And ... vs Chunilal Dahyabhai Gandhi on 25 March, 1987

Equivalent citations: JT 1987 (3) SC 60, 1987 Supp (1) SCC 634

Author: A Sen

Bench: A Sen, V B Eradi

ORDER A.P. Sen, J.

1. The Application for substitution is allowed and the Legal Representatives of the deceased-appellant are brought on record. Parties heard on merits.

2. After hearing the learned Counsel for the parties we have no manner of doubt that the High Court was in error in holding that proceedings in suit were not governed by Section 12(3)(a) but by Clause (b) thereof and in remanding the case to the Appellate Court for determination as to whether the tenant was liable to be vacated under Clause (b). Section 12(3)(a) provides that where there is no dispute as to the rate of rent and there is a failure on the part of the tenant to deposit or pay the arrears of rent accrued due within one month of the date of service of notice of demand, the Court shall pass a decree for eviction in terms of the Section. This section has been interpreted by this Court in Harbhai Lal Jagmohan Dass v. Prabhu Shivalal . Going by that interpretation, it must be held that the High Court was wrong in interfering with the order for eviction passed by the Appellate Authority under Section 12(3)(a).

3. The appeal is accordingly allowed and the judgment and order of the High Court are set aside and the order for eviction passed by the first Appellate Court is restored. The order for eviction shall not be executed till December 31, 1988 subject to the condition that the respondent files an undertaking in this Court on the usual terms within 4 weeks from today.