

Supreme Court of India

All India General Transport ... vs Sri Ambika Investment Co. Pvt. ... on 27 March, 1987

Equivalent citations: 1987 (35) BLJR 684, JT 1987 (2) SC 634, 1987 Supp SCC 662

Author: A Sen

Bench: A Sen, V B Eradi

ORDER A.P. Sen, J.

1. We have heard Dr. Y.S. Chitale, learned Counsel for the appellants and find no reason to disagree with the view taken by the High Court. Sub-section (3) of Section 8 of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1947 expressly provides that where the Controller determines fair rent, he shall appoint a date with effect from which the fair rent so determined shall take effect. The second proviso thereto lays down that the fair rent shall not take effect from any date earlier than three months from the date of application or the date on which the proceedings were suo motu started by the Controller. The Controller by his order dated March 22, 1980, Exh.D-1, has determined the fair rent of the demised premises to be Rs. 62.50 per month and also directed that the said determination shall be effective from September 13, 1974. Now, the period for which the tenant has been found in default regarding arrears is the period from July 1973 to May, 1974 i.e. prior to the date appointed by the Controller under Sub-section (3) of Section 8 of the Act. That being so, the High Court was right in holding that the landlord was entitled to a decree for eviction under Section 11(1)(d) of the Act. Accordingly, the appeal must fail and it is dismissed. We, however, direct that the decree for eviction shall not be executed for a period of six months from today subject to the filing of usual undertaking by the appellants in this Court within four weeks from today. We also direct that the appeal preferred by the landlord against determination of fair rent by the Controller under Section 8(3) of the Act shall be disposed of within three months from today by the District Magistrate, Muzaffarpur. There shall be no order as to costs.