

NON REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4335 OF 2009
[Arising out of SLP©No.16824 of 2008]

Dipali Dey (Baxi)

....Appellant

VERSUS

Mira Das

....Respondent

J U D G M E N T

TARUN CHATTERJEE, J.

1. Leave granted.
2. In our view, the High Court had acted in excess of its jurisdiction by interfering with the concurrent orders passed by the courts below allowing an application for injunction directing the respondent to restore the electric supply in the suit premises in favour of the appellant who is a divorcee residing in the same with her son. The suit that has been filed by the appellant is for declaration that she is a tenant in respect of the premises in question at a

rental of Rs.150/- per month. The case made out in the plaint is, inter alia, to the effect that she has been paying the rent but no rent receipts had been granted to her. Since the electric supply was disconnected by the respondent, she filed an application for injunction directing the respondent to restore the electric supply in her tenanted premises. Both the courts below concurrently allowed the application and directed restoration of electric supply to the tenanted premises where the appellant is residing. Against these orders, a revision was moved by the respondent which was allowed by the High Court. Feeling aggrieved by the order of the High Court, the appellant has come up before this Court by way of a special leave petition, which, on grant of leave, was heard in the presence of learned counsel for the parties.

3. In our view, as noted herein earlier, the High Court was not justified in interfering with the concurrent orders passed by the Courts below directing the landlord to restore the electric supply in the suit

premises. The question whether the appellant is a tenant or not shall be gone into at the time of disposal of the suit when the evidence would be produced by the parties in support of their respective cases. Since there is no dispute that the appellant is in possession of the suit premises claiming to be a tenant, the electric supply to the premises in question should be restored. Therefore, the High Court, in the exercise of its power under Article 227 of the Constitution ought not to have interfered with the concurrent orders of the Courts below. (See: **The Managing Director (MIG)**

Hindustan Aeronautics Ltd., Balanagar, Hyd. And Anr. Vs. Ajit Prasad Tarway, Manager (Purchase and Stores) Hindustan Aeronautics Ltd., Balanagar, Hyd. [AIR 1973 SC 76].

4. That being the position, the impugned order is set aside and the orders passed by the courts below are restored. However, considering the facts and circumstances of the present case, we direct that

Suit No.150/2001 and eviction suit being T.S.No.166 of 2001 filed by the respondent, both pending in the same court, shall be disposed of within six months from the date of supply of a copy of this order to the trial court without granting any unnecessary adjournments to either of the parties.

5. For the reasons aforesaid, the impugned order is set aside. The appeal is allowed to the extent indicated above. There will be no order as to costs.

.....J.
[TARUN CHATTERJEE]

New Delhi;
July 14, 2009.

.....J.
[R.M. LODHA]

JUDGMENT