

CASE NO.:
Appeal (civil) 6677 of 2002

PETITIONER:
VIRENDRA KUMAR SAHU

RESPONDENT:
RAM CHANDRA YADAV & ANR

DATE OF JUDGMENT: 30/04/2008

BENCH:
H.K. SEMA & MARKAANDEY KATJU

JUDGMENT:
JUDGMENT

O R D E R
CIVIL APPEAL NO. 6677 OF 2002

Heard the parties.

The order impugned passed by the High Court arises out of the order passed by the Trial Court under the provision of Order XXXIX and Rule 1 and 2.

The whole dispute relates to the agreement entered into between the appellant (tenant) and the respondent (landlord) on 8.6.2001. In the said agreement it is specifically provided as under:

"Whereas the aforesaid owners/landlords have offered to let out a portion of first floor area (approximate) 17'x35' with minimum height 12' for the purpose of carrying business by aforesaid tenant Virendra Kumar Sahu and the aforesaid tenant has agreed to take on rent portion on the first floor (approximate) 17'x35' with minimum height 12' for carrying business in the said portion on the terms and condition hereinafter mentioned."

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Since there is an agreement entered into between the landlord and tenant we are of the view that the terms of agreement should be strictly adhered to by both the parties. We accordingly dispose of this appeal with the direction that the parties should strictly adhere to the conditions contained in the agreement dated 8.6.2001. We, therefore, direct the Trial Court to appoint a local Advocate (Commissioner) to go to the disputed building and deliver possession to the tenant in terms of the aforesaid agreement. The remuneration of the Commissioner shall be fixed by the Trial Court.

The order impugned passed by the High Court is accordingly set aside. In view of our aforesaid direction the suit shall stand closed. The appeal is accordingly disposed of.