

Court in Spl. Civil Application No. 1383 of 1971.

A

V. Krishnamurthy and Rakesh K. Sharma for K.R. Chowdhary, (NP)
for the Appellants.

Ms. J.S. Wad for the Respondents.

B

The following Order of the Court was delivered :

The narrow point before the High Court as also before the Revenue Authorities was whether the appellant-tenant was in arrears of rent beyond 3 years and could action be taken under Sec. 25(1) or 25(2) of the Bombay Tenancy & Agricultural Lands Act, 1948?

C

The distinction between the two provisions is apparent. Sec. 25(1) enables a Mamlatdar to grant relief against termination of tenancy for non-payment of rent by facilitating payment of rent on call to the tenant to pay it directly to the landlord or in Court with costs of the proceedings within 15 days from the date of the order, and on failure of which to suffer an ejectment. In contrast, Sec. 25(2) carves out an exception that if the tenant is in arrears on his failure to pay rent for any three years, the landlord has to give an intimation to that effect to the tenant within a period of 3 months of each default, and then ejectment must follow as a consequence and the remedial provisions under Sec. 25(1) cannot come to the rescue of the tenant. The finding recorded by the High Court is that the instant was a case covered under Sec. 25(2) and that the Mamlatdar could not proceed under Sec. 25(1) permitting the tenant to save the tenancy on payment of arrears of rent within 15 days of the order. The High Court has given adequate reasons to come to that view. We see no justification to alter the same.

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The appeal, therefore, fails and is hereby dismissed. There shall be no order as to costs.

R.P.

Appeal dismissed.