

D. B. Civil Special Appeal (Writ) No. 1415/2008

Mohammad Khalik Miyan & anr.

V/s

Ramandas Nama & anr

29. 8. 2008

Hon'ble the Chief Justice Mr. Narayan Roy

Hon'ble Mr. Justice Mohammad Rafiq

Mr. M. C. Jain for the appellants.

Heard learned counsel for the appellants.

Perused the order impugned.

By the order impugned, writ application filed by the appellants against order of the Rent Tribunal rejecting their application under Order 7 Rule 11 of the Code of Civil Procedure, was dismissed.

It is submitted by learned counsel for the appellants that their application was based on evidence and documents and therefore, learned trial court could have decided the maintainability of the suit when there was specific averment that the appellants were not the tenants.

The court below and also learned Single Judge of this Court, however, took a contrary view by saying that the question raised by writ petitioners-appellants would be decided on merits after seeing the evidence of the parties. The orders impugned, in our considered view, therefore, do not suffer from any illegality or infirmity.

This appeal accordingly is dismissed.

(Mohammad Rafiq)J.

(Narayan Roy)C. J.

Parmar