
(1965) 07 AHC CK 0016

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 5 of 1963

Firm Ram Saran Dhondha Ram

APPELLANT

Vs

Ist Addl. Munsif Azamgarh and Others

RESPONDENT

Date of Decision : 21-07-1965

Acts Referred:

Uttar Pradesh (Temporary) Control of Rent and Eviction Act, 1947 — Section 3, 7F

Uttar Pradesh (Temporary) Control of Rent and Eviction Act, 1947 — Section 3, 7F

Uttar Pradesh (Temporary) Control of Rent and Eviction Act, 1947 — Section 3, 7F

Citation : (1965) 35 AWR 624

Hon'ble Judges : S.C. Manghanda, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.C. Manghanda, J.—This is a petition Under Article 226 of the Constitution directed against the order of the State of U.P. dated 14. 11.1962, u/s 7F of the U.P. (Temp.) Control of Rent and Eviction Act, 1947, hereinafter called the Act, reversing the order of the Commissioner and upholding the order of the RC and EO granting permission to the landlord u/s 3 of the Act for filing a suit for ejectment. After he permission u/s 3 of the Act was granted by the RC and EO a suit for ejectment was filed on 12.9.1961 in the civil court. On 23.10.1961, the Commissioner allowed the revision of the tenant. The landlord went up in revision to the State Government u/s 7F of the Act. The State Government by its order dated 14.11.1962 set aside the order of the Commissioner and restored that of the RC and EO. Hence this writ petition by the tenant.

2. Three contentions have been raised by the learned Counsel for the Petitioners and they are dealt with seriatim. The first contention was that as the Commissioner had set aside the order of the RC and EO, the permission granted by that order was of no avail and the suit instituted was invalid. There is no force in this contention in view of the Full Bench Decision in Basi Ram v. Mantri Lal (1) (1964 AWR 617). This case was sought to be distinguished on the ground that it,

was the order of the State Government u/s 7F of the Act which was challenged and not as in the present case the order of the Commissioner which set aside the permission granted by the RC and EO. No such distinction can be drawn as the Full Bench has dealt with Sections 3(3), 3 (4) and 7F of the Act. According to the Full Bench Decision the landlord could file a suit and was not required to wait till the order in revision was passed by the Commissioner or the State Government which is not bound to pass the order within any specified time.

3. It is next contended that in any event the order passed by the State Government u/s 7F of the Act was passed without granting a hearing to the Petitioner. Reliance for the proposition that an order passed u/s 7F of the Act is a quasi judicial "order" was placed on the Supreme Court decision in Lala Shri Bhagwan and Anr. v. Ram Ghand and another [2] [1965 AWR 304]. That decision nowhere lays down that the parties must actually be heard in support of the revision, all that it requires is that the parties should have been given a reasonable opportunity of placing their respective points before the State Government. There is no allegation that the order passed by the State Government was without such an opportunity having been given. It has been held in Civil Misc. Writ No. 1661 of 19b5 decided on the 5th of May 1965 by V. Bhargava and S.D. Khare, JJ. that it is not necessary for the State Govt. to give a personal hearing to the parties before it passes an order u/s 7F of the Act.

4. It was next contended that the permission was sought and granted to Bhagwati Prasad Sahu and that the suit was filed by him but as he had died, the permission granted u/s 3 of the Act would also come to an end. No authority has been cited in support of this contention, nor is it sustainable on first "principles". Once permission u/s 3 of the Act has been granted, the provisions of the Act come to an end and the parties are relegated to their rights and liabilities under the general law and the provisions of the CPC and the Transfer of Property Act are attracted. The legal representatives of Bhagwati Prasad Sahu stepped into his shoes and the permission so granted cannot be recalled nor does it lapse.

5. For the reasons given above, the petition has no force and is dismissed. In the circumstances of the case, the parties are left to bear their own costs.