
(2004) 07 AHC CK 0147
In the Allahabad High Court
Case No : Civil Revision No. 522 of 2003

Kanwal Industrial Corporation	Vs	APPELLANT
Supra Business (P.) Ltd.		RESPONDENT

Date of Decision : 09-07-2004

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 15 Rule 5
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 20

Citation : (2004) 4 AWC 3114

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : K.K. Arora, for the Appellant; B.D. Mandhyan and Satish Mandhyan,
for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—The revisionist-defendant, who is admittedly a tenant of the accommodation in question, when faced with the challenge during the proceedings of a suit for eviction on the ground mentioned in Section 20 of the U. P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, (U. P. Act No. 13 of 1972), hereinafter referred to as the Act, read with Order XV Rule 5 of the Code of Civil Procedure, wherein an application has been filed on behalf of the plaintiff-landlord that since the tenant-defendant in suit did not comply with the provisions of Order XV Rule 5 of the Code of Civil Procedure, inasmuch as he has not deposited the admitted rent on the first date of hearing and has further not complied with the provision of depositing the rent in each month as contemplated under Order XV Rule 5 of the Code of Civil Procedure, as advance is therefore liable to be struck off.

2. The tenant-defendant raised a point before the trial court that the plaintiffs company is not a landlord, therefore, in the suit filed by the plaintiff, the question of depositing the admitted rent does not arise, as there is no rent due from the

defendant to the plaintiff. From the pleadings of the parties, the only question that has arisen is that it is admitted case of the parties that the defendant is the tenant, he does not claim to be landlord, lessor or owner of the accommodation in question, therefore, he is none else for the tenant. However, in view of the dispute raised by the revisionist-defendant that since the plaintiff is not a landlord and the agreement to let out was entered into between M/s. Supra Coextruded Films Pvt. Ltd., which is a company registered under the provision of the Companies Act, the present plaintiff M/s. Supra Business (P.) Ltd., is not entitled to file a suit for recovery of alleged rent and damages for the use and occupation of the accommodation in question. On the aforesaid premises, as stated above, an objection was taken by the defendant-tenant, which has given rise to the filing of this revision by the defendant as he failed to get his contention upheld before the trial court.

3. The trial court on the basis of the material on record and evidence adduced by respective parties has arrived at the conclusion that M/s. Supra Business (P.) Ltd. is the successor of M/s. Supra Coextruded Films P. Ltd., which is supported by the document Annexure-C.A. "1" to the counter-affidavit filed in support of the stay vacation application, which is a certificate issued by the Assistant Registrar of Companies, NCT of Delhi and Haryana.

4. In this view of the matter on the basis of the material on record, the trial court has arrived at the conclusion that the contention of the revisionist-defendant cannot be accepted that the plaintiff is not the landlord, therefore, the trial court upheld the contention of the plaintiff that the defendant-revisionist is liable to pay the rent and damages as claimed in the plaint and since the admitted rent has not been deposited on the first date of hearing, which has not been disputed by the defendant. therefore, his defence is liable to be struck off.

5. Aggrieved by the aforesaid order passed by the trial court, the defendant approached this Court by means of present revision u/s 25 of Provincial Small Causes Courts Act. The finding that the name of M/s. Supra Business (P.) Ltd. has been changed as M/s. Supra Coextruded Films P. Ltd., though tried to be assailed by the revisionist-defendant, but to me it appears that the same does not warrant any interference by this Court in exercise of power u/s 25 of the Provincial Small Causes Courts Act. In the circumstances this Court arrives at the conclusion that the stand of the defendant that the plaintiff is not the landlord having failed, i need not go into the various decisions cited by the respective parties in support of their rival contentions as to whether provision of Order XV. Rule 5 of the CPC could be attracted in the facts and circumstances of the present case. The basis of the aforesaid contention of the revisionist-defendant is based on the fact that the plaintiff is not the landlord and that the learned counsel for the revisionist-defendant has failed to demonstrate, as stated above. In this view of the matter, this revision has no force and is accordingly dismissed with costs. The interim order, if any, stands vacated.