

(2000) 04 SC CK 0121

In the Supreme Court Of India

Case No : Civil Appeal No's. 9398 and 9399 of 1996

Mahendra Pal Agarwal (Decd.) and Others

APPELLANT

Vs

Prescribed Authority/Civil Judge and Others

RESPONDENT

Date of Decision : 18-04-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21, 27

Citation : (2000) 3 AWC 2497 : (2000) 7 JT 537

Hon'ble Judges : V. N. Khare, J;S. N. Phukan, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

V.N. Khare and S.N. Phukan, JJ.—The landlord, who is the Appellant before us, filed an application before the Prescribed Authority for eviction of Respondent-tenant u/s 21 of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (hereinafter referred to as 'the Act') on the ground of bona fide need. The Prescribed Authority having found that the need of the landlord was bona fide, the application filed by the Appellant was allowed and the premises was directed to be released in his favour. Aggrieved, the tenant preferred an appeal before the District Judge. While the aforesaid appeal was pending, U.P. Legislature amended the Act w.e.f. 26.11.1994 by amending Act No. 5 of 1995, whereby the building fetching rent above Rs. 2,000 were taken out from the purview of the Act. Despite this amendment in the Act, the appeal preferred by the tenant was dismissed. The tenant thereafter, filed a petition under Article 226 of the Constitution of India, challenging the order of the Prescribed Authority as well as the appellate order. The High Court was of the opinion that In view of U.P. Act 5 of 1995, remedy available to the landlord was to file regular suit and not to proceed u/s 21 of the Act. In view of this matter, the writ petition was allowed and the order passed by the Court below was set aside. It Is against the said judgment the landlord is in appeal before us.

2. At the outset, it was stated that in view of the judgment of the High Court, the landlord has already filed a civil suit for eviction of the tenant, which is pending before the Judge, Small Causes Court, Ghaziabad.

3. Learned Counsel appearing for the Appellant states that this proceeding is pending for the last 10 years and the tenant has not paid any rent and, therefore, this Court may decide the matter on merits. We are not deposed to entertain the argument of learned Counsel for the Appellant. As noticed earlier the Appellant, in pursuance of the judgment, has already filed a suit for eviction of the tenant. By such act of the Appellant, the Judgment under challenge has already been given effect to. We are, therefore, not inclined to interfere with the matter. The appeal is dismissed without any prejudice to rights and contentions of the parties. Since the matter is pretty old, we direct the Judge, Small Causes Court to decide the suit, if possible, within six months from the date of service of certified copy of this order. No costs.

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4. The Respondent-tenant moved an application on 1.12.1989 before the Prescribed Authority u/s 27 of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, for restoration of amenity of toilet. The Prescribed Authority by an order dated 14.1.1994 allowed the said application and issued direction to the Appellant-landlord to provide the facility of toilet to Respondent-tenant. Aggrieved, the landlord preferred a writ petition under Article 226 of the Constitution of India challenging the order of the Prescribed Authority. While the aforesaid writ petition was pending, U.P. Amendment Act 5 of 1995 came into force whereby the premises which were fetching rent above Rs. 2,000 were exempted from the provisions of the Act. However, the High Court without noticing the said fact, dismissed the writ petition filed by the landlord. It is against the said judgment, the landlord is in appeal before us.

5. In connected appeal, we have not interfered with the order of the High Court as the Appellant has already filed a suit. We, therefore, do not find this case as a fit case which may call for any interference. However, the parties shall maintain status quo as existing today till the decision in the suit pending before the Judge, Small Causes Court, Ghaziabad.

6. With these observations, this appeal stands disposed of. There shall be no order as to costs.