
(1998) 12 AHC CK 0065
In the Allahabad High Court
Case No : C.M.W.P. No. 35355 of 1997

Nathi Lal	Vs	APPELLANT
IIIrd Addl. District Judge, Agra and others		RESPONDENT

Date of Decision : 14-12-1998

Acts Referred:

Uttar Pradesh State Universities Act, 1973 — Section 1(2), 1(2), 2, 2(1)
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 2, 3

Citation : (1999) 1 AWC 849

Hon'ble Judges : Sudhir Narain, J

Bench : Single Bench

Advocate : N.S. Chahar and M.C. Gupta, for the Appellant;

Final Decision : Dismissed

Judgement

Sudhir Narain, J.—This writ petition is directed against the order dated 23.7.1986 passed by the Judge Small Causes Court decreeing the suit for recovery of arrears of rent, ejectment and damages filed by Agra University, Agra, respondent No. 3 against the petitioner and the order of the revisional authority dated 26.8.1997 affirming the said order in revision.

2. Briefly stated, the facts are that the petitioner is a tenant of the premises owned by Agra University, Agra, respondent No. 3. Respondent No. 3 filed Suit No. 1220 of 1982 against the petitioner for recovery of arrears of rent, ejectment and damages, on the allegation that he was tenant on monthly rent of Rs. 1.87 paise. He failed to pay the rent since 1.4.1968. A notice demanding arrears of rent and terminating his tenancy was sent to him on 11.10.1982. The defendant-petitioner failed to comply with the notice. It was further stated that the building in question belongs to the University and, as such, is exempted from the provisions of U. P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act. 1972 (In short the Act). The petitioner contested the suit. He denied that any rent was due against him. The Judge. Small Causes Court found that the

petitioner failed to pay rent since 1981 and decreed the suit for arrears of rent, ejection and damages. The petitioner filed revision against this order. Respondent No. 1 dismissed the revision on 26.8.1997.

3. The sole argument raised in this petition is that the building in question was not exempted u/s 2 (b) of the Act and, therefore, the suit could not be decreed for ejection. It is contended that the suit was filed in the year 1982 and the exemption to the property of the recognised Educational Institution did not cover any building of a University as the provision then existed. In this context. Section 2 (b) prior to the enforcement of the U. P. Act No. 5 of 1995 reads as under :

"2 (i) (b). Any building belonging to or vested in a recognised educational institution, the whole of the income from which is utilised for the purpose of such institution."

Section 3 (q) prior to its amendment by U. P. Act No. 17 of 1985 reads as under :

"(3) (q). "recognised educational institution" means any institution recognised under the Intermediate Education Act, 1921 or the Uttar Pradesh Basic Education Act, 1972 or recognised or affiliated under the Uttar Pradesh State Universities Act, 1973."

This provision was amended with effect from 5.1.1985 by U. P. Act No. 17 of 1985 and the words "any University established by law in India, or" were added.

4. Sri M. C. Gupta, learned counsel for the petitioner submitted that prior to the date of filing of the suit, the buildings which belonged or vested in the recognised or affiliated colleges of a University under the provisions of U. P. State Universities Act, 1973 were exempted but not the buildings of the University itself. The buildings of the University were included only by amendment made in the year 1985 and as the suit was filed in the year 1982 and such provision having not been made retrospective, the buildings of the University were not exempt u/s 2 (1) (b) of the Act.

5. The word "recognised" under clause (q) of Section 3 cannot be given a restricted meaning. Clause (8) of Section 2 of the U. P. State Universities Act, 1973, defines "existing University" which means "the University of Lucknow, Allahabad, Agra, Gorakhpur, Kanpur or Meerut or the Sampurnanand Sanskrit Vidyalyaya". The provisions of U. P. State Universities Act, 1973, were made applicable to these Universities by sub-section (2) of Section 1 of the Act which provides that the Act shall come into force on such date as the State Government may, by notification in the Gazette, appoint and different dates may be appointed in relation to different existing Universities and references to commencement of this Act in relation to an existing University shall be construed as the date on which this Act comes into force in relation thereto. Sub-section (2), therefore, recognises these existing Universities. Section 3 did not contemplate any Central University which was not recognised under the provisions of U. P. State Universities Act, 1973. The amendment made by U. P. Act No. 17 of 1985 covers

the case of any University situate in Uttar Pradesh whether recognised by the Central Government or under the provisions of any other Statute which were not covered by U. P. State Universities Act, 1973. The building of a University governed by the provisions of the State Universities Act, 1973, were exempt from the provisions of Act No. 13 of 1972 u/s 2 (b) read with Section 3 (q) of the Act.

6. The next submission of learned counsel for the petitioner is that clause (f) of Section 2 of the Act prior to amendment of U. P. Act No. 28 of 1976 covered the case of any building of University but the word "University" was deleted by Act No. 28 of 1976 and, therefore, it is contended that it should be taken that the intention of the Legislature was that the buildings of the University which were excluded prior to the enforcement of U. P. Act No. 28 of 1976 should be taken to have been covered under the provisions of U. P. Act No. 13 of 1972. This submission cannot be accepted. The mere fact that the word "University" was deleted under clause (f) itself does not indicate that the buildings of the University were excluded from the exemption under the Act inasmuch as clause (b) of sub-section (2) of Section 2 was already existing in respect of any building belonging to or vested in a recognised educational institution.

7. In view of the above discussion, there is no merit in this writ petition. It is accordingly dismissed.