
(1995) 03 AHC CK 0047

In the Allahabad High Court

Case No : Civil Revision No. 509 of 1988

National Seeds Corpn.Ltd. and Ors.

APPELLANT

Vs

Ram Prasad Gupta

RESPONDENT

Date of Decision : 27-03-1995

Acts Referred:

Provincial Small Cause Courts Act, 1887 — Section 23

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 20

Citation : (1995) 03 AHC CK 0047

Hon'ble Judges : D.S.Sinha, J

Final Decision : Dismissed

Judgement

D.S.Sinha, J.—Heard Sri A. N. Misra, learned counsel appearing for the applicants.

2. This Civil Revision, under Section 25 of the Provincial Small Cause Courts Act, 1887, is directed against the decree and judgment dated 2nd March 1988 passed by the Judge, Small Causes Court, Varanasi in Original Suit No. 35 of 1983 between the plaintiff opposite party and the defendantapplicants whereby the suit of the plaintiff for ejectment of the defendants from the disputed house, recovery of rent and damages and mesne profits has been decreed.

3. The defendants did not dispute that the plaintiff was the owner and of the disputed house that they were tenants in the disputed house with effect from 1st August, 1977 on a monthly rent of Rs. 900, that the agreement of tenancy was executed on 1st July, 1977, and that the disputed house was constructed in the year 197677 and, as such, the provisions of the U. P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (U. P. Act No. 13 of 1972) did not apply to the disputed house.

4. It appears that during the pendency of the suit the period of ten years, during which the disputed house enjoyed exemption from the provision of U. P. Act No. 13 of 1972, expired, the defendants, therefore, mainly confined their contest on the ground that the suit was barred by the provisions of Section 20 of U. P. Act

No. 13 of 1972. They further pleaded that in view of the fact that the entire amount of rent and damages for the use and occupation of the building due from them together with the interest thereon and the plaintiff's costs of the suit in respect thereof having already been deposited by them, they were entitled to be relieved of their liability for eviction. An attempt to dislodge the claim of the plaintiff was also made on the ground of alleged nonreceipt of the notice terminating the tenancy and its illegality.

5. The court below has held that in view of the fact that on the date of the institution of the suit the period of ten years during which a new construction enjoys exemption from the provisions of U. P. Act No. 13 of 1972, had not expired; and that the said period of ten years expired during the pendency of the suit, the protection of the provisions of U. P. Act No. 13 of 1972, claimed by the defendants, was not available to them. For coming to this conclusion the court below relied upon the decision of the Hon'ble Supreme Court of India rendered in the case of Nand Kishore Marwah v. Smt. Samundari Devi, reported in 1987 (2) Allahabad Rent Cases at page 361. This decision, which still continues to be lodestar, declares that the provisions of U. P. Act No. 13 of 1972 will not be attracted in a suit of ejectment of the tenant from a building the period of ten years of construction whereof expires after the institution and during the pendency of the suit. The conclusion of the court below in this regard is, therefore, not open to challenge.

6. So far as the plea of nonreceipt of the notice of termination of tenancy and its illegalities is concerned, the court below points out that the receipt of the notice was admitted by the defendants in paragraph 5 of their written statement, and that the learned counsel appearing for the defendants had failed to point out any illegality in the matter. The impugned decree and judgment, therefore, cannot be assailed on the ground of alleged nonreceipt and illegalities of the notice.

7. The impugned decree and judgment of the court below, in the opinion of the court, is perfect and sound in law. The court below did not commit any illegality in decreeing the suit of the plaintiff opposite party.

8. In the result, the revision fails and is hereby dismissed.

Revision dismissed.