

Case No : Civil Miscellaneous Writ Petition Nos. 11314 and 12865 of 2001

 V_S

Thakur Narain Singh Maharaj Virajman Mandir; Special Judge, Etawah and Others

Date of Decision : 18-07-2001

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 — Section 30

Citation : (2001) 07 AHC CK 0089

Hon'ble Judges : Yatindra Singh, J

Final Decision : Disposed Of

Judgement

Yatindra Singh, J.—Thakur Narsinghji Mahraj (landlord) let out the premises in dispute in the year 1946 by registered deed to M/s. Ram Bakas Nathmal (tenant). The tenant filed an application on 27101990 under Section 30 of U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (the Act) for depositing the rent as according to him the landlord had refused to accept the same. In pursuance of this application some rent has been deposited. During pendency of the aforesaid application the landlord filed a suit No. 93 of 1994 for eviction of the tenant on the ground that the tenant is in arrears of rent and the Act is not applicable. This suit was decreed ex. pane on 2751995. The tenant filed an application under Order 9, Rule 13 to set it aside. This application was allowed. Subsequently, the tenant filed an application for depositing the rent in the suit. This was allowed on 14111996 and the tenant was permitted to deposit the rent in the suit. The landlord filed a revision. This was allowed on 381998. In the meantime the tenant's application under Section 30 of the Act that was filled on 27101990 was allowed on 1771998. The tenant after order dated 381998 started depositing rent under Section 30 of the Act in pursuance of the order dated 1771998.

2. The landlord filed a revision against the order dated 1771998. This revision

has been partly allowed. The Court has held that the landlord is a trust and now after amendment the Act is not applicable. The permission to deposit future rent was set aside. The tenant has filed Writ Petition No. 11314 of 2000 refusing permission to deposit future rent and the landlord has filed a Writ Petition No. 12865 of 2000 against that part of the order by which the rent already deposited under Section 30 of the Act was accepted.

3. I have heard Sri Pradeep Kumar counsel for the tenant and Sri A.K. Tiwari counsel for the landlord. Two questions are involved : (1) Whether the Act is applicable or not?; (2) In case the Act is applicable then whether deposit under Section 30 is valid or not? These questions are involved the O.S. No. 93 of 1994 and to be decided therein. The decision in proceeding under Section 30 neither binds the parties nor res judicata between them in the O.S. No. 93 of 1994. In view of this, I see no justification to decide them in the writ petitions. It will be appropriate to dispose of these writ petitions with the following observations:

* The rent due and the future rent after adjusting the already deposited under Section 30 of the Act may be deposited by the tenant in OS No. 93 of 1994.

* The rent deposited under Section 30 of the Act and deposited in the suit may be lifted by the landlord. The deposit of the rent in suit or lifting of the rent by the landlord will be without prejudice to their rights of the parties in the suit.

* The suit may be decided without being influenced by the orders under Sec 30 of the Act.

4. The parties may appear in the suit on the next date fixed or 20/8/2001 whichever is earlier and it may be decided in accordance with law.

5. With these observations the writ petition are disposed off.

6. Let a copy of this order be placed in the record of WP 12865 of 2001.