
(2000) 09 AHC CK 0050

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 9801 of 1980

Ram Pyari

APPELLANT

Vs

IVth Addl. Distt.Judge,Jalaun at Orai and Others

RESPONDENT

Date of Decision : 13-09-2000

Acts Referred:

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

Citation : (2000) 09 AHC CK 0050

Hon'ble Judges : R.H.Zaidi, J

Judgement

R.H. Zaidi, J.—Heard learned Counsel for the petitioner. None appeared for the respondents.

The petitioner who happened to be owner of the house in dispute challenged the validity of the judgment and order passed by the Court below dated 771980 to the extent that the said Court refused to decree the suit of the petitioner for recovery of arrears of rent and damages.

2. It appears that the petitioner filed a suit for ejectment and recovery of rent on the ground of subletting. The said suit was contested by the respondent Nos. 3 and 4 pleading that there was no relationship of landlord and tenant between the parties, therefore, there was no question of subletting. The other pleas taken by the petitioner in her plaint are also denied. The parties adduced evidence oral and documentary in support of their cases and trial Court after perusal of material on record held that there existed no relationship of landlord and tenant between the parties and dismissed the suit by its judgment and decree dated 2111979. Challenging the validity of the said decree the petitioner filed revision before the Court below. The Revisional Court affirmed the finding recorded by the trial Court that there existed no relationship of landlord and tenant between the parties; but it held, the suit still could be decreed on the basis of title. He placed reliance on a decision of this Court in Rameshwar v. Binde Khan and another, AIR 1976 AM. 153; AIR 1976 SC 735; 1903ILR 25 All 256 (FB) and 1903ILR 498

(FB). In the aforesaid decision it was held by this Court even if no relationship of landlord and tenant is established the suit could still be decreed for possession on the basis of title. In the present case ownership of petitioner was not denied by the defendant. Court below also held that she was owner of the property in dispute and defendantrespondent had no right to occupy the same. Having recorded the said finding the Court below allowed the appeal and decreed the suit in part for possession by judgment and order dated 771980.

3. The learned Counsel for the petitioner submitted that the petitioner was also entitled to decree of recovery of arrears of rent and damages. The Court below had illegally dismissed the suit for recovery of the amount of rent and damages. According to him the petition deserves to be allowed.

4. I have considered the submissions made by the learned Counsel for the petitioner and perused the record.

5. The two Courts have recorded concurrent findings of fact that there existed no relationship of landlord and tenant between the parties. It has been held that if there does not exist the relationship of landlord and tenant between the parties therefore, there was no question of subletting but the suit could be decreed on the basis of title. The said findings have been recorded on the basis of evidence on the record and do not suffer from any error of law, therefore, they cannot be questioned before this Court under Article 226 of the Constitution of India. The Court below was right in holding that even if in a suit of recovery, the relationship of landlord and tenant is not proved the suit for possession could be decreed on the basis of title. In the present case ownership of petitioner over the property in dispute was not denied. Court below, therefore, rightly decreed the suit for possession and rightly rejected the claim of the petitioner with respect to other reliefs.

6. I do not find any illegality or infirmity in the order passed by the Courts below. No case for interference under Article 226 of the Constitution of India is made out.

The writ petition is accordingly dismissed but without any order as to costs.