

(1995) 07 MP CK 0009
In the Madhya Pradesh High Court
Case No : C. Revision No. 506 of 1995

Ramesh Chandra

APPELLANT

Vs

Rajesh Kumar and Others

RESPONDENT

Date of Decision : 11-07-1995

Acts Referred:

Madhya Pradesh/Chhattisgarh Accommodation Control Act, 1961 — Section 12(1)
Transfer of Property Act, 1882 — Section 111

Citation : (1995) JLJ 583

Hon'ble Judges : Shacheendra Dwivedi, J

Bench : Single Bench

Advocate : K.N. Gupta, for the Appellant; V.G. Khot, for Non-Petitioners 2 and 3, for the Appearing Parties

Final Decision : Dismissed

Judgement

Shacheendra Dwivedi, J.—This revision is directed against the order of allowing the amendment filed by non-Petitioners 2 and 3, i.e. the Plaintiffs. In the eviction suit under the amendment, they have incorporated a further ground of the denial of their title by the Petitioner-tenant. The title of the Plaintiffs was denied by the Petitioner in his written statement.

2. Shri K.N. Gupta, learned Counsel for the Petitioner, has drawn the attention of this Court to the authority of Sureshchandra v. Gopichand 1984 MPWN 470 to contend that the ground of eviction ought to exist at the time of filing of the suit as Section 12(1) of the M.P. Accommodation Control Act, 1961 has been so worded. He contends that the ground which did not exist at the time of filing of the suit cannot be taken by the Plaintiffs subsequently during the pendency of the suit.

3. The Petitioner's counsel in support of his contention has placed implicit reliance on Sureshchandra (supra). The authority has proceeded on the provisions of Section 111 of the Transfer of Property Act. It was also not a by-partite order. Thereafter, the Apex Court in Majati Subbarao Vs. P.V.K. Krishna

Rao (Deceased) by Lrs., : also reported in short Note No. 192 of 1990 (1) MPWN has held that if in his counter to the eviction petition (i.e. written statement) the tenant denies the title of the Plaintiff, that would be a good ground for his eviction from the suit property.

4. In view of the Apex Court's decision, the authority cited by Shri K.N. Gupta stands impliedly overruled. Since the Apex Court has held that the denial of the title by a tenant in the written statement would be a ground available to the Plaintiff for his eviction under the M.P. Accommodation Control Act. It is no longer in dispute that the disclaimer of title of landlord affects his interest adversely and would be a ground u/s 12(1)(c) of the Act.

5. Their Lordships of the Apex Court dealing with a similar provision under A.P. Rent Act, with reference to the provisions of Transfer of Property Act, observed in Majoli Subbarao (supra) that:

5. xx xx xx xx xx

The difference between the position obtaining under the Transfer of Property Act and the Rent Acts in the matter of determination of a lease is that under the former Act in order to recover possession of the leased premises determination of the lease is necessary because during the continuance of the lease the landlord cannot recover possession of the premises while under the Rent Acts the landlord becomes entitled to recover possession only on the fulfilment of the conditions laid down in the relevant sections. He cannot recover possession merely by determining the tenancy. Nor can he be stopped from doing so on the ground that he has not terminated the contractual tenancy. In the case before us, we find that the denial of landlords title by the tenant has been expressly made a ground for eviction u/s 10(2)(vi) of the A.P. Rent Act which we have already set out earlier. In view of this, the entire basis for the argument that the denial of title must be anterior to the proceedings for eviction under the A.P. Rent Act is knocked out.

6. On the foregoing discussion, this petition has no merit and is, therefore, dismissed. However, in the facts and circumstances, there shall be no order as to the costs.