

(2004) 04 AHC CK 0173
In the Allahabad High Court
Case No : Second Appeal No. 935 of 1980

Riyasat Khan (D.) through L.Rs.

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 30-04-2004

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 15

Citation : (2004) 4 AWC 3059

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : Radhey Shyam and R. Dwivedi, for the Appellant; A.K. Sinha, S.C., for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—Heard learned counsel for the parties.

2. The plaintiff-appellant filed a suit before the trial court for injunction to the effect that defendants may be restrained from evicting the plaintiff from plot No. 61/1 measuring 8.11 acres situate in cantonment area. Shahjahanpur. It is admitted case of the parties that the property belongs to respondent No. 1, i.e., Union of India. The plaintiff has set up his case that since the land was leased out by the defendant for a period of five years upto 31st May, 1974 and since the plaintiff has not vacated the land, a notice was served upon him dated 29th April, 1977, directing the plaintiff to remove his effects from the land in dispute and hand over vacant possession by 16th May, 1977, because the plaintiffs lease, has not been renewed from 16th May, 1977. The plaintiffs' case In short is that after expiry of the lease period since the defendants have accepted rent they cannot evict him. As already stated the trial court dismissed the suit holding that in view of provisions of Section 15 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, the suit itself is barred as the trial court has no jurisdiction to try the suit. On merits also the trial court has recorded a finding

that no lease is subsisting in favour of the plaintiff and after expiry of lease period his occupation over the land is that of an unauthorised occupant for which a notice was also issued on 29th April, 1977, directing the plaintiff to vacate the land by 16th May, 1977. Having not being done so the plaintiff cannot now be granted injunction prayed for. The suit was, therefore, dismissed.

3. Aggrieved thereby the plaintiff preferred an appeal before the lower appellate court. The lower appellate court maintained the findings recorded by the trial court and dismissed the appeal.

4. Before this Court the learned counsel for the appellant has reiterated the same arguments and has relied upon a case in 2003 (51) ALR 700 (Para 37). Section 15 of Public Premises (Eviction of Unauthorised Occupants) Act, 1971, is reproduced below which clearly bars a suit:

"15. Bar of jurisdiction.-No Court shall have Jurisdiction to entertain any suit or proceeding in respect of ;

(a) the eviction of any person who is in unauthorised occupation of any public premises ; or

(b) the removal of any building, structure or fixture or goods, cattle or other animal from any public premises u/s 5A ; or

(c) the demolition of any building or other structure made or ordered to be made, u/s 5B ;

or

(cc) the sealing of any erection or work or of any public premises u/s 5C ; or

(d) the arrears of rent payable under sub-section (1) of Section 7 or damages payable under sub-section (2) or interest payable under sub-section (2A), of that section ; or

(e) the recovery of :

(i) costs of removal of any building, structure or fixture or goods, cattle or other animal u/s 5A ; or

(ii) expenses of demolition u/s 5B ; or

(iii) costs awarded to the Central Government or statutory authority under sub-section (5) of Section 9 ; or

(iv) any portion of such rent, damages, costs of removal, expenses of demolition or costs awarded to the Central Government or the statutory authority."

5. A bare perusal of Section 15 quoted above clearly oust jurisdiction of the civil court. In this view of the matter the finding of the trial court affirmed by the lower appellate court that a suit is barred by the provision of Section 15 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, does not require

any interference by this Court.

6. In view of what has been stated above this appeal is dismissed.