

(2000) 07 AHC CK 0079

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 29891 of 2000

State of U.P.and Others

APPELLANT

Vs

Vth Additional District Judge, Mathura and Others

RESPONDENT

Date of Decision : 17-07-2000

Acts Referred:

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

Citation : (2000) 07 AHC CK 0079

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

Final Decision : Dismissed

Judgement

R.H. Zaidi, J.—By means of this petition filed under Article 226 of the Constitution of India, petitioners pray for issuance of a writ, order or direction in the nature of certiorari quashing the judgment and order dated 142000 whereby suit filed by the contesting respondent for ejectment was decreed against the petitioners and the order dated 742000 whereby revision filed by the petitioner was dismissed by the Court below.

2. It appears that the petitioners happened to be the tenants of the building in question. The tenancy of the petitioners was terminated by a notice sent by the contesting respondent No. 3 and thereafter suit was filed for ejectment and recovery of rent on the ground of material alteration. The suit was contested by the petitioners pleading that the notice served upon them was illegal and that the building was not materially altered, that in any view, the value of building was not decreased by the alteration made by them.

3. The trial Court framed relevant issues on the basis of the pleadings of the parties. The parties thereafter, produced evidence in support of their cases, oral and documentary. The trial Court recorded findings on the relevant issues in favour of the contesting respondent/landlord and decreed the suit vide its judgment and decree dated 142000. Challenging the validity of the said decree, the petitioner filed a revision before the Court below. The Court below also

affirmed the findings recorded by the trial Court and dismissed the revision by its judgment and order dated 742000, hence the present petition.

4. Learned Additional Advocate General vehemently urged that the notice served upon the petitioner was invalid and on the basis of the same, suit could not be decreed. It was also urged that on account of alleged alteration made in the building the value of the building was not decreased rather it was increased. It was also urged that the provisions of the Act were not applicable in the present case in as much as the land where the building stands, happens to be Nazul land. On the other hand, learned Counsel appearing for the contesting respondent No. 3 supported the judgments and decrees/orders passed by the Courts below. It was urged that the findings are concurrent findings of fact which are based on the relevant evidence on record, therefore the writ petition has got no merits and the same is liable to be dismissed.

5.1 have considered the submissions made by the learned Counsel for the parties and also perused the record. So far as the validity of the notice is concerned I have perused the notice in question, which has been filed by the petitioner as Annexure I to the writ petition. I do not find any illegality or infirmity in the said notice. The tenancy of the petitioners was terminated in accordance with law.

6. So far as the question of material alteration is concerned, the two Courts below have recorded the concurrent findings against the petitioners. It has been held that the petitioners have materially altered the building in question on account of which the value of the building was increased. The said finding is based on the relevant evidence on record.

7. The third and last submission made by the learned Counsel for the petitioners is with regard to the applicability of the Act on the building in question. This point was not raised by the petitioners before the trial Court or before the Revisional Court. This question involves factual controversy in as much as it is not known as to whether the building in question was situated in Nazul land, therefore, this question cannot be permitted to be raised at this stage. In my opinion, the judgment and orders passed by the Courts below do not suffer from any illegality or infirmity and they are concluded by concurrent findings of fact. No case for interference under Article 226 of the Constitution of India is made out.

8. Learned Additional Advocate General lastly submitted that the petitioners may be granted some reasonable time to vacate the building in question. Learned Counsel appearing for the contesting respondent has no objection if six months time is granted to the petitioners subject to the condition the petitioners furnish an undertaking in writing before the trial Court within the specified time, they shall deliver the vacant possession to the respondent No. 3 and for the period they remain in occupation of the building, they shall pay the rent. In view of the aforesaid facts it is hereby directed that the petitioners shall be permitted to continue in the building in question for a period of six months subject to the condition they furnish an undertaking in writing before the trial Court within 3

weeks from today, that they shall deliver the vacant possession of the building in question to the respondent No. 3 immediately after the expiry of the aforesaid time or before, and also make payment of rent for the period they remain in occupation of the building, failing which this order shall stand automatically vacated and the respondents shall be at liberty to execute the decree in accordance with law.

9. Subject to what has been stated above, the writ petition fails and is hereby dismissed. Petition dismissed.