

Radhey Lal Mannia Lal Vs. Bimal Kumar Jain and ors.

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Court : Allahabad

Decided On : Mar-01-1979

Reported in : AIR1980All84

Judge : Satish Chandra, C.J. and ;Yashoda Nandan, J.

Acts : [Transfer of Property Act, 1882](#) - Sections 106

Appeal No. : Second Appeal No. 1420 of 1968

Appellant : Radhey Lal Mannia Lal

Respondent : Bimal Kumar Jain and ors.

Advocate for Def. : Rajesh Tandon, Adv.

Advocate for Pet/Ap. : B.N. Asthana, Adv.

Judgement :

Satish Chandra, C.J.

1. A learned single Judge has referred the following question of law to a Division Bench:

'Whether in a case where an accommodation is in the tenancy of two or more joint tenants, it is necessary that the notice terminating their tenancy must be addressed to all of them?'

2. The facts as mentioned in the referring order are that the plaintiff-respondent sued for the eviction of the appellants. It was found that the appellants were joint tenants of the house in dispute. A notice demanding payment of arrears of rent and terminating their tenancy was addressed to Debi Ghulam Gupta, defendant-appellant No. 3 only though it was served on Ram Kishan Gupta, defendant-appellant No. 2.

3. The submission on behalf of the tenants was that in order to be a valid notice to quit, it must be addressed to all the joint tenants though it may be served on one of them. In support, reliance was placed upon *Liladhar Pandey v. L. Ramji Dass* (1956 All LJ 650) and *Nawabzada Muhammad Ishaq Khan v. Smt. Shiva Rani* (1971 All WR (HC) 497). On the other hand, in *Roshan v. Purshottam Lal* (1965 ALJ 880), it was held that a notice sent to the address of one of the joint tenants was a valid notice. The view taken was that the notice calling upon the joint tenants to quit but sent to one of them, is, in law, addressed to both. Thus, there is a conflict of opinion in this Court on the question whether in the case of joint tenants, a notice to quit should be addressed to all joint tenants or it is sufficient to sustain the validity of the notice that it is addressed to one of them.

4. This question has engaged the attention of a Division Bench of this Court in *Budh Sen v. Sheel Chandra Agarwal* (1977 All WC 553). On a consideration of earlier decisions including the Supreme Court decision in *Kanji Manji v. Trustees of the Port of Bombay* (AIR 1963 SC 468), the Bench held that notice addressed to one of the joint tenants was valid though the position is different in the case of co-tenants. The present is a case of joint tenants. It is thus clear that notice to quit addressed to one of the joint tenants is a valid notice. It is not necessary that such a notice must be addressed to all the joint tenants.

5. Let the case be returned to the learned single Judge with this opinion and answer.