

Gulam Mohammad Ansari Vs. IInd Additional District Judge and anr.

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Court : Allahabad

Decided On : Jan-28-2004

Reported in : 2004(4)AWC3411

Judge : N.K. Mehrotra, J.

Acts : Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 - Sections 20(4) and 30; Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Rules - Rule 21(5)

Appeal No. : Writ Petition No. 5268 (R/C) of 1985

Appellant : Gulam Mohammad Ansari

Respondent : IInd Additional District Judge and anr.

Advocate for Def. : Ved Prakash, C.S.C.

Advocate for Pet/Ap. : P.N. Mathur, ;A.K. Jauhri, ;Anurag Srivastava and ;Amitab Mishra, Advs.

Disposition : Petition dismissed

Judgement :

N.K. Mehrotra, J.

1. This is writ petition under Article 226 of the Constitution of India for issuing a writ in the nature of certiorari for quashing the judgment and order dated 1.10.1985 passed by the Illrd Additional District Judge, Lucknow in Civil Revision No. 266 of 1982 and the judgment and order dated 31.3.1981, passed by the Judge, Small Causes Court, Lucknow in Suit No. 633 of 1980 as contained in Annexure-3 to this writ petition.

2. Heard the learned counsel for the petitioner and the opposite party No. 4.

3. The petitioner is a tenant in the disputed premises. Keshav Ram Gupta and one another landlord filed a suit for recovery of rent and ejectment against the petitioner after termination of the tenancy on the ground of default. The learned Judge, Small Causes Court recorded the finding that the petitioner cannot be given advantage of the rent deposited by him Under Section 30 of U. P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (hereinafter referred to as 'Act') because the amount of rent was not deposited in accordance with the prescribed procedure. After recording this finding, the learned Judge, Small Causes Court, held that the petitioner-tenant is defaulter in making the payment of rent even after the service of notice of demand and ejectment. The learned Judge, Small Causes Court held that the plaintiff has not been able to prove the substantial damage to the premises in suit. The petitioner is not entitled for the benefit of Section 20 (4) for decree of eviction. The petitioner filed a revision against this judgment and the findings recorded by the learned trial court have been confirmed by the revisional court in Civil Revision No. 266 of 1982. The learned revisional court held that the provisions of Rule 21 of the Rules framed under U. P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, is obligatory and the defiance to the procedure contained in that rule would invalidate the deposit. It was also held that the money order receipts filed by the petitioner in the Misc. case Under Section 30 of the Act are not accompanied by any acknowledgement and necessary process fee and the notice in Form 'F' was also not supplied by the revisionist in the Court wherein the rent was deposited and, therefore, the defendant is not entitled to get benefit of those deposits in respect of which compliance of Rule 21 (5) is lacking.

4. It is against the judgments of the two courts below that this petition has been filed. The only question involved in this writ petition is as to whether the petitioner is entitled to the benefit of deposit Under Section 30 of the Act to save from the finding of defaulter against him. The two courts below have recorded a finding that the petitioner had not complied with the procedure prescribed under Rule 21 for depositing the rent Under Section 30 of the Act. There is nothing before this Court to interfere in these findings. The learned counsel for the petitioner has placed legal arguments on the basis of the provisions Under Section 30 of the Act and Rule 21 of the Rules framed under the Act but in view of the decision of this Court in *Vijai Kumar v. First Additional District Judge, Meerut and Ors.*, 1988 AWC 1412 ; *Chunni Lal and Anr. v. Ramesh Chand and Ors.*, 1997 (15) LCD 853 ; *Pasupati Singh v. 1st Additional District Judge, Ballia and Ors.*, 1981 ARC 222 and *Chhotey Lal v. XIVth Additional District Judge, Kanpur and Ors.* 1994 (1) ARC 289. I find no illegality in the findings recorded by the courts below with regard to the validity of deposit of rent Under Section 30 of the Act.

5. The learned counsel for the opposite parties has referred a decision of the Supreme Court in *E. Palanisamy v. Palanisamy (Dead) by L. Rs. and Ors.*, (2003) 1 SCC 123, in which it has been held that the rent legislation is normally intended for the benefit of the tenants. At the same time, the benefits conferred on the tenants through the relevant statutes can be enjoyed only on the basis of strict compliance with the statutory provisions. Equitable consideration has no place in such matters. The tenant has to observe the procedure as prescribed in the statute. Strict compliance with the procedure is necessary.

6. In view of the above, I find no ground to interfere in the impugned judgments.

7. Accordingly, the writ petition is dismissed.