

State Bank of India Vs. Additional District Judge and ors.

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Court : Allahabad

Decided On : Nov-28-2002

Reported in : 2003(2)AWC959

Judge : S.P. Mehrotra, J.

Acts : Uttar Pradesh Urban Building (Regulation of Letting, Rent and Eviction) Act, 1972 - Sections 21(8)

Appeal No. : C.M.W.P. No. 50956 of 2002

Appellant : State Bank of India

Respondent : Additional District Judge and ors.

Advocate for Def. : Santosh Kumar Mishra, Adv.

Advocate for Pet/Ap. : S.N. Verma and ;Sharad Malviya, Adv.

Disposition : Petition dismissed

Judgement :

S.P. Mehrotra, J.

1. This writ petition has been filed by the petitioner under Article 226 of the Constitution of India, inter alia, praying for quashing the order dated 1.5.2002 (Annexure-5 to the writ petition) and the order dated 24.8.2002 (Annexure-6 to the

writ petition).

2. The dispute relates to enhancement of rent in respect of a premises situated in Deoria-Kasia Road, district Deoria, the detail of which have been in the application under Section 21 (8) of the U. P. Act No. 13 of 1972 (in short 'the Act') referred to hereinafter. The said premises has hereinafter been referred to as the disputed premises.

3. From the allegation made in the writ petition, it appears that the respondent No. 3 filed an application dated 20.12.1985 under Section 21 (8) of the U. P, Act No. 13 of 1972, inter alia, praying for enhancement of rent in respect of the disputed premises from Rs. 300 per month to Rs. 13,750 per month with effect from 1.1.1986. It was, inter alia, alleged in the said application that the respondent No. 3 was the landlord and owner of the disputed accommodation ; and that the petitioner had been in occupation of the disputed premises at the rate of Rs. 300 per month, and that the petitioner was Public Sector Corporation, as such, according to provision contained in proviso 1 to Sub-section (8) of Section 21 of U. P. Act No. 13 of 1972, monthly rent was liable to be enhanced to the 1/12 of 10% of the present market value of the disputed premises. A copy of the said application dated 20.12.1985, has been filed as Annexure-1 to the writ petition. The petitioner contested the said application and filed objection dated 23.4.1986, copy whereof has been filed an Annexure-2 to the writ petition. It further appears that the said application dated 20.12.1985, filed by the respondent No. 3 was allowed by the respondent No. 2 (Rent Control and Eviction Officer/Pargana Adhikari, Deoria) by the order dated 21.1.1993 and the rent was enhanced from Rs. 300 per month to Rs. 13,750 per month.

4. Thereafter, the petitioner filed an appeal under Section 22 of the Act. The said appeal was dismissed by the appellate authority by order dated 20.5.1996.

5. Thereafter, the petitioner filed a writ petition being Civil Misc. Writ Petition No. 31872 of 1996 before this Court. The said writ petition was dismissed by the learned single Judge of this Court on 18.3.1999.

6. Thereafter, it appears that the petitioner filed special leave petition being S.L.P. (C) No. 11758 of 1999 before the Hon'ble Supreme Court. By the judgment and order dated 8.11.2000, their lordships of the Supreme Court allowed the said appeal, and set aside the order passed by the Rent Control and Eviction Officer as affirmed by the appellate authority and the High Court and remitted the matter to the Rent Control and Eviction Officer for fresh consideration from the stage when the matter was set down on 24.11.1992 and after notice to the parties proceed to dispose of the matter.

7. Thereafter, it appears that the petitioner filed an amendment application dated 5.3.2002, before the Rent Control and Eviction Officer, inter alia, praying for amending the written statement/objection filed on behalf of the petitioner by adding Paragraphs 15A and 15B copy of the said amendment application dated 5.3.2002, has been filed as Annexure-3 to the writ petition.

8. The respondent No. 3 filed objection dated 2.4.2002 to the said amendment application ; copy of the objection dated 2.4.2002, has been filed as Annexure-4 to the writ petition. By the order dated 1.5.2002, Up Zila Adhikari/Rent Control and Eviction Officer, Deoria, dismissed the said amendment application filed on behalf of the petitioner. It was, inter alia, held that the amendments sought to be made did not give any detail as to from what date and upto what date, the petitioner continued to remain tenant of the disputed premises andas what date, the petitioner vacated the disputed premises. It was inter alia, emphasised that in the written statement/objection filed on behalf of the petitioner, the petitioner accepted relationship of landlord and tenant. It was, inter alia, further emphasised that no reason has been given by the petitioner as to why facts sought to be brought on record by the amendment application were not placed before the higher Courts.

9. Thereafter, the petitioner filed a revision which was registered as Rent Revision No. 2 of 2002. By the judgment and order dated 24.8.2002, the said revision filed by the petitioner was dismissed by the learned Additional District Judge, Court No. 4, Deoria. It was, inter alia, observed that the amendment sought to be made in the written statement/objection, did not mention the date on which possession was allegedly given by the petitioner to the respondent No. 3. It was, inter alia, further

held that even if the possession was delivered by the petitioner on 31.7.1999, as mentioned in paragraph No. 4 of the said revision, still the relationship of landlord and tenant remained existing till 31.7.1999 and the respondent No. 3 would be entitled to enhanced rent upto that period.

10. I have heard the learned counsel for the petitioner and the learned counsel for the respondent caveator.

11. Learned counsel for the petitioner submits that the observations made in the revisional court order dated 24.8.2002, that the amendments sought to be made by the petitioner in the written statement/objection were time-barred was not correct. It is further submitted that the amendment application sought to have been allowed by the respondent No. 2. The impugned orders passed by the authorities below, the contention proceeds, are illegal.

12. In reply, learned counsel for the caveator-respondent submits that the Supreme Court in the judgment and order dated 8.11.2000, inter alia, directed that the proceedings would start before the respondent No. 2 from the stage when the matter was set down on 24.11.1992 as such, the amendment application filed by the petitioner was rightly rejected by the respondent No. 2. It is further submitted that as per the only showing of the petitioner possession was allegedly given by the petitioner to the respondent No. 3 on 31.7.1999, still the said facts were not brought to the notice of the Apex Court.

13. Having considered the facts and circumstances of the case and having perused materials on record, I am of the opinion that no illegality has been committed by the respondent No. 3 in passing the order dated 1.5.2002 dismissing the said amendment applications filed on behalf of the petitioner without going into the question as to whether revision filed by the petitioner was maintainable against the order dated 1.5.2002, I am of the opinion that the revisional authority has not committed any illegality in passing the order dated 24.8.2002 dismissing the Rent Control Revision No. 2 of 2002. It is true that the revisional court was not correct in observing that the amendments sought to be made in the written statement/objection were time-barred. However, in my opinion, a perusal of the order dated 24.8.2002 shows that the revisional authority intended to emphasise

that the amendments sought were belated and the same could not be allowed. Besides the question of delay other relevant factors have been emphasised for directing the amendment application.

14. Considering the facts and circumstances of the case, I am of the opinion that this writ petition lacks merits and the same is liable to be dismissed.

15. The writ petition is accordingly dismissed.

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