

Seema Singh Vs. Rent Control and Eviction Officer and ors.

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Court : Allahabad

Decided On : Jul-17-2007

Reported in : 2007(4)AWC3970

Judge : Rakesh Tiwari, J.

Appellant : Seema Singh

Respondent : Rent Control and Eviction Officer and ors.

Disposition : Petition dismissed

Judgement :

Rakesh Tiwari, J.

1. An application under Section 16(1) (b) and Section 12(4) of the U.P. Act No. 13 of 1972 was filed by respondent Nos. 2 to 5 against the petitioner and others on the ground that the respondent Nos. 2 to 5 and the landlord of the Building No. 1088, Civil Lines, Lalitpur, was let out to Ram Nath and Company on 10.2.1968. Late Ram Kumar Singh was Manager in the Ram Nath Company aforesaid. And was living in it as in that capacity. The company was dissolved and the disputed premises was vacated.

2. Ram Kumar Singh, the erstwhile Manager of the company, moved an application for allotment of the premises in his favour which was registered as

Case No. 108 of 1979. The application of the manager was rejected.

3. Thereafter, the landlord filed a release application on the ground that the house in dispute was bona fide required to them,. The objections against the release application was filed by the petitioner claiming herself the tenancy devolved upon her as she is the wife of late Arun Kumar Singh of the dissolved company.

4. It appears that an amendment application was filed by her on 5.5.2007 praying for following amendments:

1- ;g fd mRrj i= dh /kkjk 22 ds i'pkr fuEukafr ubZ /kkjk 22v] 22c] 22l] 22n] 22;] 22j] 22g tksM+h tkos A

22,- ;g fd Lo0 Jh jke dqekj flag ,oa mldh ifRu fo:) i{k la0 4 esa dkQh erHksn jgrk Fkk vkSj muds vkilh IEcU/k vPNs ugh Fks rFkk mudh vkil esa curh ugha Fkh blfy, fo:) i{k la0 4 Jh jke dqekj flag ds thoudky esa gh uxj yfyriqj ds eqgYyk jke uxj fLFkr edku esa fuokl djrh Fkh vkSj vkt Hkh dj jgh gS fo:) i{k la0 4 us Lo0 jke dqekj flag ls vyx gksus ds i'pkr viuk edku dz; fd;k Fkk ftldk dqN fgLlk ihrkEcjk xzsukb ZV dks fdjk;s ij ns fn;k Fkk A ihrkEcjk xszukbV vHkh edku ds dqN Hkkx esa fdjk;snkj gS fo:) la0 4 dks Lo0 Jh jke dqekj flag fd fdlh IEifRr ls vFkok iq=ksa dh fdlh IEifRr ls dksbZ IEcU/k o ljksdkj ugh jgk gS u gS A

22c- ;g fd Lo0 Jh jke dqekj flag ds cM+s iq= fo:) i{k la0 1 Hkh Lo0 Jh jke dqekj flag ls vyx fuokl djrs Fks vkSj mUgksus Loa; viuk eku eqgYyk flfoy ykbZu] yfyriqj esa dz; fd;k Fkk ftlesa fo:) i{k la01 orZeku es Hkh fuokl dj jgk gS A

22l- ;g fd fo:) i{k la0 2 vfuy dqekj Lo0 Jh jke dqekj flag ls vyx xzke Nkuh esa gh fuokl djrk vk jgk gS vkSj yfyriqj ds fo:) i{k la0 2 dh dksbZ IEifRr ugha gS rFkk fookfnr edku ls fo:) i{k la0 2 dh dksbZ eryc o ljksdkj ugh gS A

22n- ;g fd oxj yfyriqj ds eqgYyk jkeuxj esa Lo0 Jh v:.k dqekj flag }kjk dksbZ Hkh edku fufeZr ugh fd;k x;k Fkk u gh Lo0 v:.k dqekj fo:) i{k la0 3 jkeuxj fLFkr fdlh Hkh edku ds Lokeh Fks u gh fo:) i{k la0 3@1] 3@2] 3@3 edku uEcj 415] eqgYyk jkeuxj ds Lokeh gS bl edku dh Lokeh ,d efgyk Jherh d`.kk flag g SA fo:) i{k la0 3 us tks Hkwfe dz; dh Fkh og Hkwfe mUgksus vius thoudky esa gh Jherh d`.kk flag dks csp nh Fkh] Jherh d`.kk flag us Hkwfe dz; djus ds ckn ml ij edku dk fuekZ.k fd;k

Fkk mijksDr edku esa Jherh d`.kk flag fuokl djrh gS rFkk ekSds ij mUgh dk ekydkuk dCtk n[ky gS E;qfufliy fjdkM+Z esa ;fn fo:) i{k la0 3 dk uke mDr edku ij ntZ gks rks og xyr gS fo:) i{k la0 3@1] 3@2] 3@3 ds mijksDr edku esa dksbZ LorRo ugha Fks u gS rFkk dksbZ eryl ljkdkj u rks Fkk u gS A

22;- ;g fd fo:) i{k la0 3@1] 3@2] 3@3 fookfnr edku ds oS/kkfud fdjk;snkj gS blfy, js UV dUVksy ,DV dh /kkjk 164 ,oa 12 ds vUrZxr dk;Zokgh pyulkj ugh gS vkSj fujLr gksus ;ksX; gS A

22j- ;g fd Lo0 Jh jke dqekj dh e`R;q ds le; fookfnr edku esa muds lkFk fo:) i{k la0 3 ,oa 3@1] 3@2] 3@3 gh fuokl djrs Fks A

22g- ;g fd izkFkhZx.k ds fo:) i{k la0 1] 2] 4 dks dk;Zokgh gktk esa vuko';d i{k LFkkfir fd;k gS blfy, dk;Zokgh fujLr gksus ;ksX; gS A

2- ;g fd mRrji= dh /kkjk 30 ds i'pkr ubZ /kkjk 30c- tksM+h tkos A

30c- ;g fd i{k fo:) i{k la0 3@1] 3@2] 3@3 ds f[kykQ dsoy /kkjk 21 js UV dUVksy ,DV ds vUrZxr gh dk;Zokgh dj ldrs Fks U;k;ky; Jheku~ esa izLrqr dh x;h dk;Zokgh gktk dkuwuu pyulkj ugha gS vkSj fujLr gksus ;ksX; g SA

5. Objections were filed by the landlord inter alia that the suit is pending for last 8 years and they have already given their evidence in this case about 10 months prior that the amendment will change the nature of the suit. It was also averred in the objections by the landlord to the amendment application that the documents have already been exhibited and have been proved by documentary evidence, as such, the amendment application is not maintainable.

The petitioner has replied to the aforesaid objection inter alia that the nature of the suit will not be changed and that amendments are necessary. The Court by impugned order dated 29.6.2007 came to the conclusion that Ram Kumar Singh was given the accommodation in dispute as a Manager and the company has been dissolved in the year 1973. Thereafter, Sri Ram Kumar Singh, son of Pahalwan Singh who was the Manager in the company, made efforts to get the accommodation allotted in his favour which was rejected. He was never a tenant of the accommodation in dispute but was occupying the premises till the company

existed as he was the manager hence the tenancy could not devolve upon the petitioner who claims herself to be the wife of the son of the erstwhile Manager Ram Kumar Singh.

6. The Court further held that in the circumstances, the amendments sought by the petitioner are wholly irrelevant as Ram Kumar Singh was never the tenant of the accommodation in dispute and also owned his own house. The petitioner is deliberately trying to delay the dispute and by taking it in wrong direction changing the nature of the dispute.

7. After hearing the counsel for the parties, I am of the view that petitioner could not claim tenancy through Ram Kumar Singh, the erstwhile Manager, who was never a tenant of the accommodation in dispute but was living there as an employee of the company which stood dissolved and had also come to an end as the company had vacated the premises. The release application for allotment of the petitioner having been rejected and attained finality, no case of devolving the tenancy on the petitioner could be made out as wife of the son of Ram Kumar Singh, erstwhile manager. There is no illegality or infirmity in the reasoning of the court below. The amendment application is rejected.

8. For the reasons stated above, the writ petition is hereby dismissed with costs of Rs. 10,000 as Ram Kumar Singh has built his own house and claim of tenancy by the petitioner appears to be mala fide and illmotivated. The amount of Rs. 10,000 shall be recovered by the court below as a certificate by the High Court and shall be paid to the contesting respondents for frivolous dispute.

9. Since the dispute is pending for long time, it is provided that the suit would be decided by the prescribed authority within a period of two months from today in accordance with law by a reasoned and speaking order.