

Moti Lal Vs. Smt. Chandrakali

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Court : Allahabad

Decided On : Aug-30-2006

Reported in : 2007(1)AWC820

Judge : Rakesh Tiwari, J.

Appellant : Moti Lal

Respondent : Smt. Chandrakali

Disposition : Petition dismissed

Judgement :

Rakesh Tiwari, J.

1. Heard earned Counsel for the parties and perused the record.
2. The petitioner claims to be a tenant in House No.36/31, G-1, Ram Mohan Ka Hata, Kanpur Nagar since 1975. The house was purchased by Smt. Chandrakali, the sole respondent in the writ petition through registered sale deed dated 10.8.1998 from the previous landlord Sri Banshi Lal.
3. A notice dated 9.4.1999 was sent by the landlady for arrears of rent and damages amounting to Rs. 25,840 as well as ejectment of the petitioner on the ground that he was an unauthorized occupant.

4. The petitioner denied the allegations stating that he had sent six months' rent from September, 1998 which was refused by the landlady, hence he deposited the same in Court under Section 30 of the Rent Control Act in Case No. 46270/99 Moti Lal v. Smt. Chandrakali, and since then he is depositing the rent in Court regularly month to month.

5. The respondent-landlady moved an application under Sections 12 and 16-Ib of U.P. Act No. 13 of 1972 alongwith an affidavit before the Rent Control and Eviction Officer/City Magistrate, Kanpur Nagar explaining her bona fide need.

6. A report was called from the Rent Control Inspector who after inspection submitted his report on 1.8.2002.

7. The petitioner filed objection to the report of the Rent Control Inspector dated 1.8.2002 specifically stating that in the report of the Rent Control Inspector neither the accommodation in the possession of the respondent-landlady nor how many rooms the house in question consists was disclosed. He assailed the report further on the ground that the personal need of the respondent-landlady In the light of status and number of members in her family was not assessed, hence the report was asserted to be not fair.

8. The respondent-landlady filed an affidavit dated 4.2.2005 stating that the petitioner has never resided in the house in question prior to 1993.

9. In rebuttal, the petitioner also filed an affidavit supported by documentary evidence that he is living in the house in dispute since before 1976 and that the rent receipts filed by the petitioner and alleged to be issued by the erstwhile landlord Banshi Lal was claimed to be forged by the landlady.

10. The Rent Control and Eviction Officer vide his judgment and order dated 7.8.2006 declared vacancy holding that the petitioner was unauthorized occupant and never resided in the accommodation in dispute.

11. It appears from the record that initially the petitioner disputed the very title of the respondent-landlady Smt. Chandrakali by stating that the house in dispute was never sold to her by Banshi Lal the erstwhile owner and also lodged an F.I.R.

under Sections 323/448/504/506/380, I.P.C. which was registered as Case Crime No. 348/99.

12. In the aforesaid case Banshi Lal gave a statement that he had sold the house in dispute to Smt. Chandrakali and that he had received the sale consideration through pay order which was deposited by him in the Punjab National Bank. In the circumstances, the police submitted final report in Case Crime No. 348/99 finding the F.I.R. lodged by the petitioner against Banshi Lal to be incorrect.

13. It also appears from the record that the petitioner Moti Lal S/o Ram Charan was residing in House No. 35/96, Bengali Mohal, Kanpur and not in House No. 36/31 G-1, Ram Mohan Ka Hata, Kanpur as he claims according to the certified copy filed by him. No documentary evidence could be given by the petitioner to show that he was a valid and bona fide tenant in the aforesaid house in dispute. Per contra in the certified copies of Panchsalas filed before the court below for the years 1973-78, 1978-87 and 1987-92 in respect of House No. 35/96 Bengali Mohal the petitioner was recorded as a tenant in House No. 35/96 Bengali Mohal while in so far as House No. 36/31 G-1, Ram Mohan Ka Hata is concerned his name is not recorded in any of the certified copies of Panchsalas as a tenant.

14. The court below also did not believe the case set up by the petitioner that Smt. Chandrakali was not his landlord.

15. The court below has recorded a categorical finding that the petitioner had failed to produce any cogent and convincing evidence to prove that he is a legal and bona fide tenant in House No. 36/31 G-1, Ram Mohan Ka Hata, Kanpur Nagar. In this view of the matter the court below has rightly declared vacancy in the house in dispute.

16. For the reasons stated above, the writ petition is dismissed. No order as to costs.