

islam and ors. Vs. Gopal Dubey and ors.

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Court : Supreme Court of India

Decided On : Jan-25-1994

Reported in : (1994)4SCC459

Judge : S. Mohan and; M.K. Mukherjee, JJ.

Acts : U.P. (Temporary) Control of Rent and Eviction Act, 1947 - Section 3(a) to (f); principal Act - Section 3

Appeal No. : Civil Appeal No. 1894 of 1980

Appellant : islam and ors.

Respondent : Gopal Dubey and ors.

Disposition : Appeal Allowed

Judgement :

S. Mohan and; M.K. Mukherjee, JJ.

1. After hearing both the learned counsel, we are clearly of the view that the findings of the High Court upsetting that of the trial court and the lower appellate court, cannot be supported. Once the original period of tenancy namely, eleven months expires, it is the United Provinces (Temporary) Control of Rent and Eviction Act, 1947, that takes over. The result is the rights of the landlord and tenant are governed by this Act. In other words, the tenant becomes a statutory

tenant. If that be so, the only question would be whether the permission for instituting a suit under clauses (a) to (f) of Section 3 of the Act, the permission of the District Magistrate is necessary. No doubt, in *Pradesh Kumar Bajpai v. Benod Behari Sarkar*¹ it was held that such a permission may be necessary. Unfortunately, the attention of the Court was not drawn to U.P. Act 44 of 1948 which stated as follows :

“U.P. Act XLIV of 1948 added the following after the Explanation :

‘For the removal of doubts it is hereby declared that under Section 3 of the principal Act no permission of the District Magistrate is or be deemed to ever have been necessary for filing a suit for eviction against a tenant or any of the grounds mentioned in clauses (a) to (f) of the said section.’ ”

2. Therefore, the judgment of the High Court has to be set aside. It is accordingly set aside and the civil appeal is allowed with costs.

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