

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6475 OF 2008

CHHOTE LAL NISHAD (D)

Appellant(s)

VERSUS

RAVINDER KUMAR SRIVASTAVA

Respondent(s)

J U D G M E N T

R. BANUMATHI, J.

1. This appeal arises out of the impugned order passed by the High Court of judicature at Allahabad in Writ Petition No. 11 of 2007 (R/C) dated 05.02.2007 in and by which, the High Court has set aside the order passed by the Rent Control Authority as well as by the Appellate Authority, dismissing the Eviction Petition filed by the respondent-landlord.

2. The respondent-landlord, a practising advocate, filed an eviction suit, being Suit No. 2 of 2000 and the same was dismissed by the Rent Control/Eviction Officer by order dated 09.01.2001.

3. Being aggrieved, the respondent-landlord filed Civil Revision Petition No. 24 of 2001 before the Additional District Magistrate against the order

dated 09.01.2001, which also came to be dismissed on 08.02.2002.

4. Being aggrieved, the respondent-landlord took the matter to the High Court in Writ Petition No. 11 of 2007 (R/C).

5. In the writ petition, the High Court quashed the impugned order passed by the District Judge, Faizabad dated 04.05.1998 as well as the orders passed by the Rent Controller and allowed the writ petition, holding that the courts below ignored the fact and evidence that the landlord bonafide requires the house for himself and his family members and for his legal profession. Though the High Court allowed the writ petition, the High Court granted liberty to the respondent-landlord to file a fresh application before the Rent Control Officer, Faizabad or any other duly authorised officer by the District Magistrate, Faizabad, highlighting all the facts/details of family members, his legal practice etc. and issued further direction to the Rent Control Officer.

6. We may usefully extract the impugned order of the High Court, which reads as under :-

"This Court has appreciated the bonafide need of a lawyer in various judgments as reported in 1995 (1) ARC 200, Surjan Sing Vs. IX A.D.J. Kapur (Para6), 1984(2) ARC 548, Prem Nath Bhatia Vs. Munsi Lal Nigam and others (Para 8) and 1993(1) ARC 362, Shobha Ram and others vs. VII Additional District Judge, Deoria. The learned court below ought to have taken into consideration the landlords' status, number of members of the family and arrival and entertainment of guests, relatives and clients, etc. In view of the law laid down by the Hon'ble Supreme Court of India in (2005) 8 SCC 252, Sait Nagjee Purshotham & Co. Ltd. Vs. Vimalabai Prabhulal and others and JT 1996(6) SC 468 Mrs. Meenal Eknath Kshisagar Vs. M/s Traders & Agencies and others as also a decision of this Court as reported in 1988 AWC 1063 Cappanal Vs. A. D. J. Moradabad, the bona fide and genuine need of landlord cannot be ignored.

In view of above, the writ petition is allowed and the impugned order passed by the District Judge, Faizabad on 04.05.1998 and the rent control authorities' orders are quashed. The Petitioner is directed to file a fresh application before the Rent Control Officer, Faizabad or other competent authority duly authorised by the District Magistrate, Faizabad

highlighting all the facts/details of family members, his legal practice etc. On receiving such an application, the Rent Control Officer shall dispose of the same by passing appropriate orders after following due procedure as provided under the act No. XIII of 1972 and after giving opportunity of hearing to the present tenant. The Petitioner is expected to place all the cases cited in this judgment and the decisions given by this court as reported in 2005-2006 Allahabad Rent Cases. This exercise shall be completed within three months of filing of release application before the Rent Control Officer, competent authority etc. along with Judgment of this court."

7. Being aggrieved by the order passed by the High Court, the appellant-tenant is before this Court. The only contention urged by the learned counsel for the appellant-tenant is that, while quashing the orders passed by the District Judge as well as the Rent Controller, the High Court had not chosen to issue notice to the appellant-tenant and the High Court, while setting aside the orders, ought to have issued notice to the tenant.

8. In the facts and circumstances of the case and in the light of the order passed by the High Court, we

do not think that the contention of the appellant-tenant merits acceptance. The High Court has, while setting aside the orders passed by the District Judge as well as the Rent Controller, only granted liberty to the respondent-landlord to file fresh application setting out all the grounds/requirements. By the impugned order passed by the High Court, in our view, no prejudice has been caused to the appellant-tenant as the eviction application to be filed by the respondent-landlord will be proceeded denovo.

9. The appeal is dismissed.

.....J.

[R. BANUMATHI]

.....J.

[SANJAY KISHAN KAUL]

New Delhi;

April 05, 2017.

JUDGMENT