Ranjeet Singh vs Ravi Prakash on 18 March, 2004

Equivalent citations: AIR 2004 SUPREME COURT 3892, 2004 (3) SCC 682, 2004 AIR SCW 4221, 2004 ALL. L. J. 2811, 2004 (2) HRR 268, 2004 SCFBRC 256, (2004) 17 ALLINDCAS 51 (SC), 2004 (2) SLT 818, 2004 (17) ALLINDCAS 51, (2004) 4 JT 127 (SC), (2004) 1 CLR 517 (SC), (2004) 3 JCR 85 (SC), 2004 HRR 2 268, 2004 (2) ALL CJ 1818, 2004 ALL CJ 2 1818, (2004) 1 WLC(SC)CVL 682, (2004) 2 ALL WC 1721, (2004) 1 RENCR 515, (2004) 55 ALL LR 319, (2004) 3 MAD LW 437, (2004) 1 ALL RENTCAS 613, (2004) 3 CAL HN 152, (2004) 2 RECCIVR 493, (2004) 17 INDLD 407, (2004) 2 RENTLR 495, (2004) 3 MAD LJ 72, (2004) 3 SCALE 481, (2004) 2 SUPREME 582, (2003) 2 RENCR 612, (2004) 1 RENCJ 104

Author: R.C. Lahoti

Bench: R.C. Lahoti, Ar. Lakshmanan

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           CASE NO.:
Appeal (civil)  1685 of 2004

PETITIONER:
Ranjeet Singh

RESPONDENT:
Ravi Prakash

DATE OF JUDGMENT: 18/03/2004

BENCH:
R.C. LAHOTI & DR. AR. LAKSHMANAN.

JUDGMENT:
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J U D G E M E N T (Arising out of S.L.P. (C) No.19166/2001) R.C. LAHOTI, J.

Leave granted.

Appellant is the landlord-owner of the suit premises in occupation of respondent as the tenant. Proceedings for eviction of the respondent were initiated by the landlord on the grounds available under clauses (a) and (b) of sub-section (1) of Section 21 of Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (U.P. Act No. XIII of 1972). The appellant's case was that the premises in occupation of the respondent were required bona fide by the appellant for his own business of fertilizers and agricultural implements. It was also alleged that the shop in occupation of the respondent was in a dilapidated condition. It was an old construction. Cracks had

developed in the walls and the lintel. The corners of walls had given way. The local municipality had served a notice on the appellant on 27.02.1985 to demolish the verandah and lintel. Hence, it was necessary to demolish the shop and reconstruct the same.

The Prescribed Authority, which is the Trial Court, vide its judgment dated 15.02.1989 directed the appellant's application to be dismissed. The appellant preferred an appeal which was allowed. Vide the judgment dated 17.07.1997, the learned Additional District Judge held the availability of both the grounds of eviction in favour of the appellant. The learned ADJ entered into re-appreciation of evidence and assigned reasons to show why the findings arrived at by the Trial Court could not have been sustained. In the shop, in occupation of the respondent, he was running the business of fertilizers and agricultural implements and thus it could not be denied that the shop was suited for the business which the appellant proposed to have in the premises. There were two reports by two Local Commissioners, submitted on spot inspection, one of which was believed and such other evidence as available on record was appreciated in the light of the report of the Local Commissioner. The Appellate Court was persuaded to form an opinion, and in our opinion rightly, that the shop was an old construction which needed to be demolished as it was in a bad shape.

Feeling aggrieved by the judgment of the Appellate Court, the respondent preferred a writ petition in the High Court of Judicature at Allahabad under Article 226 and alternatively under Article 227 of the Constitution. It was heard by a learned Single Judge of the High Court. The High Court has set aside the judgment of the Appellate Court and restored that of the Trial Court. A perusal of the judgment of the High Court shows that the High Court has clearly exceeded its jurisdiction in setting aside the judgment of the Appellate Court. Though not specifically stated, the phraseology employed by the High Court in its judgment, goes to show that the High Court has exercised its certiorari jurisdiction for correcting the judgment of the Appellate Court. In Surya Dev Rai Vs. Ram Chander Rai & Ors. - (2003) 6 SCC 675, this Court has ruled that to be amenable to correction in certiorari jurisdiction, the error committed by the Court or Authority on whose judgment the High Court was exercising jurisdiction, should be an error which is self-evident. An error which needs to be established by lengthy and complicated arguments or by indulging into a long- drawn process of reasoning, cannot possibly be an error available for correction by writ of certiorari. If it is reasonably possible to form two opinions on the same material, the finding arrived at one way or the other, cannot be called a patent error. As to the exercise of supervisory jurisdiction of the High Court under Article 227 of the Constitution also, it has been held in Surya Dev Rai (Supra) that the jurisdiction was not available to be exercised for indulging into re- appreciation or evaluation of evidence or correcting the errors in drawing inferences like a court of appeal. The High Court has itself recorded in its judgment that "considering the evidence on the record carefully" it was inclined not to sustain the judgment of the Appellate Court. On its own showing, the High Court has acted like an Appellate Court which was not permissible for it to do under Article 226 or Article 227 of the Constitution.

The approach of the High Court cannot be countenanced. The appeal is allowed. The judgment of the High Court is set aside and that of the Appellate Court is restored. The respondent is allowed four months time from today for vacating the suit premises subject to filing the usual undertaking within a period of 4 weeks from today. No order as to costs.