

## **Rup Lal vs Ram Swarup S/O Bachan Lal And Anr. on 21 March, 1950**

**Equivalent citations: AIR1950ALL504**

### **JUDGMENT**

Seth, J.

1. This is a defendant's appeal arising out of a suit for his ejectment from certain premises situate at Chhibramau in the District of Farrukhabad. It appears that during the pendency of the appeal before the lower appellate Court, the provisions of the U. P. (Temporary) Control of Rent and Eviction Act (in [3] of 1947), were extended to the town area of Chhibramau also. The contention of the learned counsel for the appellant is that the appellant is entitled to the benefits of the Act and, therefore, he cannot be ejected. It is submitted that this point was not urged before the lower appellate Court, because while the case was pending before that Court it was not known that the Act has been extended to the Chhibramau town area. I have, therefore, permitted the learned counsel for the appellant to satisfy me that he is entitled to resist ejectment by reason of the aforesaid Act. The mere fact that the Act has been extended to the town area of Chhibramau will not render the suit liable to dismissal unless the learned counsel can point out some provision of the Act which requires the suit to be dismissed. Learned counsel has referred to Sections 3 and 15 of the Act in support of his contention. Section 3 of the Act relates to the institution of suits only and provides that a suit for the ejectment of a tenant from an accommodation shall not be instituted without the permission of the District Magistrate or except on any one or more of the grounds mentioned in that section. The present suit was instituted before the Act was applied to the town area of Chhibramau. It cannot, therefore, be said that there was any defect in the institution of the Suit. Whether a suit has or has not been rightly instituted is to be determined in accordance with the law in force on the date when the suit was instituted. The appellant can, therefore, succeed only if he can satisfy the Court that any provision exists in the Act which prevents a decree being passed in favour of the plaintiff respondent, for so far as the question whether the defendant can or cannot be ejected, is concerned, it must be governed by the law in force at the time when the decree has to be passed. Learned counsel refers me to Section 15 of the Act in that connection, but Section 15 applies only to suits pending on the date of the commencement of the Act. The date of the commencement of the Act is mentioned in Section 1, Sub-section. (3) of the Act, which provides that the Act shall be deemed to have come into force on 1st October 1946. The, date of the commencement of the Act is, there fore, 1st October 1946. I do not find it possible to interpret the expression "the date of the commencement of the Act" to mean the date when the Act is applied to a particular area. Section 15 also, therefore, has no application to the present case.

2. For the aforesaid reasons, I find that there is no force in this appeal. It is dismissed under Order 41, Rule 11, Civil P. C.