

Ghanshyamdass Bhagat And Anr. vs L. Gulab Chand And Ors. on 4 October, 1950

Equivalent citations: AIR1952ALL624, AIR 1952 ALLAHABAD 624

JUDGMENT

Bind Basni Prasad J.

1. This is a plff.'s appeal from the judgment of the learned Civil Judge of Agra dated 3
"This is an application for permission to eject through the Civil Court Ghanshamdass

After the grant of this permission, the tenant (the plff. in the present case) brought

2. No evidence was adduced in the Court below. The question is mainly one of interpretat

3. During the War there was difficulty about accommodation & Orders were made, firstly,
"And whereas due to the shortage of accommodation in the United Provinces it is expedi

4. Section 3 of the Act provides for restriction of eviction. Under the Transfer of Prop

"8. No suit shall, without the permission of the District Magistrate, be filed in any ci

(a) that the tenant has wilfully failed to make payment to the landlord of any arrears o

(b) that the tenant has wilfully caused or permitted to fee caused substantial damage to

(c) that the tenant has, without the permission of the landlord, made or permitted to be

(e) that the tenant has on or after the first day of October, 1946, sub-let the whole or

(f) that the tenant has renounced his character as such or denied the title of the landl

Explanation.--For the purposes of Sub-section (e) lodging a person in a hotel or a lodgi

5. Doubts arose as to whether or not the permission of the District Magistrate was necessary.
"For the removal of doubts it is hereby declared that under Section 3 of the Principal Act

The position is now clear. Section 3 read with Section 10 of the Amending Act now provides

6. Shri Jagdish Swarup, learned counsel for, the appellant, has argued that the District Magistrate
"District Magistrate' includes an officer authorised by the district magistrate to perform

He has referred also to Section 3A which provides for the fixation of rent, Section 7 which

7. Powers may be conferred upon an authority by a statute either expressly or by necessary implication.
"A duty or right imposed or given to one may also cast by implication a corresponding

Reference may be made here to The Queen v. Ghanterell, (1875) 10 Q. B. 587 in which this
"Provided always that if a case of difficulty upon the determination of any of the provisions

It was held that this provision not merely empowered, but required the Justices in any

8. Sections 91 & 92, Civ. P. C. contain provisions for the consent of the Advocate-General

9. The next argument on behalf of the appellant was that the provision under Section 3 of the
In his book 'American Administrative Law' Bernard Schwartz observes at p. 20 :

"The line has not been exactly drawn which separates those important, subjects which must

10. Learned counsel relies upon the following: observation of Hughes C. J. in Schechter v. United States
"Section 3 of the Recovery Act is without precedent. It supplies no standards for any

11. There is a great difference between the power conferred upon the President in that case

12. No other point was urged on behalf of the appellant. I would, therefore, dismiss the appeal

Sankar Saran, J.

13. I agree.