

## Abhilakh Ram vs B. Uma Shanker on 12 April, 1950

**Equivalent citations: AIR1950ALL666, AIR 1950 ALLAHABAD 666**

### JUDGMENT

Bind Basni Prasad, J.

1. The point in issue in this appeal lies in a narrow compass. The respondent is a tenant of a house belonging to the appellant. On 13th July 1946 the appellant brought a suit against the respondent for his ejection from the house. A consent decree was passed on 14th February 1947, according to which the tenant was allowed a certain time to vacate the house. He did not vacate it. The appellant then filed an application for the execution of the decree. Meanwhile the (U. P. Temporary) Control of Rent and Eviction Act, 1947 (U P. Act III [3] of 1947) was passed. Inter alia the tenant relying upon Section 14 of that Act contended that he was not liable to ejection. This section runs as follows:

"14. No decree for the eviction of a tenant from any accommodation passed before the date of commencement of this Act shall in so far as it relates to the eviction of such tenant, be executed against him as long as this Act remains in force, except on any of the grounds mentioned in Section 3.

Provided that the tenant agrees to pay to the landlord 'reasonable annual rent' or the rent payable by him before the passing of the decree, whichever is higher."

2. The Act received the assent of the Governor General on 28th February 1947, under Section 76, Government of India Act, 1935, and was published in the U. P. Gazette Extraordinary, dated 1st March 1947. By Sub-section (3) of Section 1 of the Act it was provided that it would be deemed to have come into force on the 1st day of October 1946.

3. Learned counsel for the appellant contends that the Act commenced from the 1st day of October 1946, and as this decree was passed subsequent to that date Section 14 is not available to the respondent. I am unable to agree to this. The word "commencement" as defined in Sub-section (10) of Section 4 U. P. General Clauses Act, 1904, is as follows:

" 'Commencement' used with reference to an Act, shall mean the day on which the Act comes into force."

Sub-section (3) of Section 1, U. P. (Temporary) Control of Rent and Eviction Act, 1947, came into force, according to Section. 5, U. P. General Clauses Act, 1904, on the day when it was first published in the Official Gazette. Before such publication this Act had no effect. The words "the day on which

the Act comes into force" appearing in Sub-section (10) of Section 4, U. P. General Clauses Act, 1904, mean the date on which the Act acquires statutory effect and not the date on which it is deemed to have come into force. There is a sharp distinction between the date on which an Act comes into force and the date on which it is deemed to have come into force. As already stated this Act came into force on 1st March 1947, but by virtue of Sub-section (3) of Section 1 it would be deemed to have come into force on 1st October 1946.

4. Section 5, Clause (1), U. P. General Clauses Act does not help the appellant. It runs as follows:

"Where any United Provinces Act is not expressed to come into operation on a particular day, then it shall come into operation if it is Act of the Legislature, on the day on which the assent thereto of the Governor, the Governor-General or His Majesty, as the case may require, is first published in the Official Gazette and if it is in Act of the Governor, on the day on which it is first published as an Act in the Official Gazette".

5. There is a distinction between the words "comes into force" and "come into operation". In Sub-section (10) of Section 4, U. P. General Clauses Act, the words used are "comes into force" whereas in Section 6 of that Act the words used are "come into operation". If the intention of the Legislature had been to convey the same sense in the two sections the same language would have been used. The U. P. (Temporary) Control of Rent and Eviction Act, 1947, came into force on 1st March 1947 and came into operation from 1st October 1946.

6. Acts should be so interpreted as to avoid anomalies. The appellant's interpretation of Section 14, U. P. (Temporary) Control of Rent and Eviction Act would lead to the anomalous position that decrees for ejectment from a house passed before 1st October 1946, could not be executed except on any of the grounds mentioned in Section 3 but decrees passed after that date and before 1st March 1947, could be executed. The second paragraph of the preamble will show that the object of the Act is to remove the hardship caused by the shortage of accommodation in this province and to prevent the eviction of tenants therefrom. It is difficult to believe that the Legislature while giving protection to the tenants in regard to the decrees of ejectment passed against them before 1st October 1946 should have deprived those tenants against whom such decrees were passed between this date and 1st March 1947.

7. For the reasons given above, I hold that the respondent is entitled to the benefit of Section 14, U. P. (Temporary) Control of Rent and Eviction Act, 1947.

8. Learned District Judge, however, ignored the specific provisions of Section 14. This section does not put a complete bar to the execution of the decree. If any of the grounds mentioned in Section 3 of the Act exists, then the tenant can be evicted. Secondly, even if any such ground does not exist the tenant can continue to occupy the house only if he agrees "to pay to the landlord reasonable annual rent or the rent payable by him before the passing of the decree whichever is higher."

These two points have not been determined by the learned District Judge. It is only after the determination of these two points in favour of the respondent that the application for execution can be dismissed. If any of the grounds mentioned in Section 3 exist or if the respondent does not agree to pay to the landlord reasonable annual rent, or the rent payable by him before the passing of the decree whichever is higher, the execution will proceed and the execution application cannot be dismissed. In view of this aspect of the case, the order passed by the learned District Judge must be set aside and the appeal remanded.

9. The appeal is allowed. The order passed by the learned District Judge is set aside and the appeal is remanded to the learned District Judge to rehear it in the light of the observations made above.

10. Parties will bear their costs in this Court. Leave for Letters Patent Appeal was asked for and refused.