

Budhu Ram vs Peare Lal on 14 August, 1952

Equivalent citations: AIR1952ALL916, AIR 1952 ALLAHABAD 916

JUDGMENT

Malik, C.J.

1. This is an application under Article 226 of the Constitution against an order passed by the District Magistrate of Mirzapur under Section 3, U. P. Temporary Control of Rent and Eviction Act (No. 19 of 1947) giving the opposite party permission to file a suit for ejectment of the applicant from certain premises given to him on rent. The section sets out certain grounds on which a landlord can file a suit for ejectment of his tenant, but if the grounds specified in the section do not exist a suit for ejectment can only be filed if permission to file such a suit is given by the District Magistrate.

The Court can take judicial notice of the fact that accommodation available in the cities was so limited that it gave the house-owners an opportunity to rack-rent their tenants and harass them in various other ways. The Legislature, therefore, stepped in with certain legislations, one of which was the U. P. Temporary Control of Rent and Eviction Act. It fixed the amount of rent which a landlord could charge and it also restricted his right to eject a tenant at his sweet-will and pleasure after having served a notice for ejectment in accordance with the provisions of Section 106, T. P. Act. If, however, certain specified grounds, mentioned in Section 3, existed a landlord was given the right to file a suit for ejectment.

In the absence of any such grounds he had to apply to the District Magistrate and on permission being given by the District Magistrate he could file a suit for ejectment. No directions were given in the Act how the discretion was to be exercised. It was left to the District Magistrate as a responsible officer to consider the reasons why the landlord wanted to eject a tenant and to prevent a tenant being unnecessarily harassed by suits for ejectment. The section does not require the District Magistrate to give reasons why he granted the permission to file a suit or refused such permission, nor is his discretion made subject to correction by the courts of law. In the case before us, however, the District Magistrate has given reasons which, according to him, justified his granting the permission to file a suit. From those reasons it does not appear to us that the permission given was either mala fide or capricious.

2. Learned counsel has relied on certain observations in Messrs. Karam Chand Thapar & Bros. Ltd. v. Dr. Vijay Anand, 1952 ALL. L. J. 274 and has urged that in that case it was laid down that the District Magistrate should not be actuated by any corrupt motive and that he could grant permission only on reasonable grounds. It was urged that it was, therefore, for this Court to consider whether the reasons given by the District Magistrate justified the permission granted by him. We do not think that the case relied upon helps the contention advanced by learned counsel. It is clearly mentioned in the judgment that the question, whether permission should or should not be granted,

is left solely to the discretion of the District Magistrate and the exercise of that discretion cannot be challenged in a Court of law.

3. There is no suggestion that the District Magistrate was actuated by malice or any corrupt motive, nor can it be said that his order is capricious. We do not think we can under Article 226 of the Constitution go into the question whether the reasons given by the District Magistrate for the exercise of his discretion were sufficient or not.

4. The application has no force and is dismissed.