

Ram Krishna vs Radhamal And Ors. on 28 November, 1951

Equivalent citations: AIR1952ALL697, AIR 1952 ALLAHABAD 697

JUDGMENT

Agarwala J.

1. This is an application under Article 226 of the Constitution, praying that it may be declared that the United Provinces (Temporary) Control of Rent and Eviction Act, 1947 is ultra vires and null and void and the opposite parties be directed by suitable order or writ of mandamus not to enforce any decree or order passed under this Act and the applicant be declared entitled to enjoy his own property for personal use.

2. The facts of the case are simple. The applicant is the owner of house No. 112/224 situated in Sarup Nagar. The house was constructed, according to the applicant, for his own use and enjoyment but it was given out on rent temporarily by him to one Asan Das at an agreed rent of Rs. 170 per month and Asan Das continued as a tenant for five or six months. But during his tenancy he surreptitiously, according to the applicant, let in Radhamal, opposite party No. 1, without the knowledge and consent of the applicant. That, however, appears to have been condoned because the applicant entered into an agreement with Radhamal for the payment of rent at the rate of Rs. 170 per month. This rent was paid for some time but later on the opposite party No. 1 applied to the Rent Controller under Section 3-A, United Provinces (Temporary) Control of Rent and Eviction Act, 1947 for fixation of the annual reasonable rent at Rs. 125 per month. The applicant, however, did not accept the rent fixed by the District Magistrate and consequently the opposite party No. 1 filed a suit in the Court of the 1st Additional Munsif, Kanpur, for the fixation of rent, as provided for in Section D (4) of the aforesaid Act. The 1st Additional Munsif fixed the rent at Rs. 125 per month. This decree was passed on 6th January 1960, before the Constitution came into force. The applicant's case is that after the Constitution has come into force this decree has become null and void because the United Provinces (Temporary) Control of Rent and Eviction Act, 1947, under the provisions of which it was passed has become void under Article 13 of the Constitution inasmuch as it contravenes the fundamental right of the applicant under Article 19(f) of the Constitution. He, therefore, seeks a declaration to that effect.

3. It appears to us that the relief claimed by the applicant cannot be granted by us in the present proceedings. The applicant prays for a declaration that the decree has become null and void by reason of certain provisions of the Constitution. There is nothing in law to prevent him from obtaining this declaration from a proper civil Court. It is very rarely that this Court grants declarations of the nature sought for in the present application. But assuming that this is a fit case in which a declaration could be made, we do not think we should exercise our powers if the applicant has got another equally efficacious remedy available to him.

4. On the merits also the applicant has no case. The United Provinces (Temporary) Control of Rent and Eviction Act, 1947, was passed, as its preamble shows, to provide for the continuance, during a

limited period, "of powers to control the letting and the rent of residential and non-residential accommodation and to prevent the eviction of tenants therefrom."

On account of the war, and the increase of population, rents went up and there was scarcity of accommodation and members of the public were put to great hardship. In order to give relief to the public the State passed ordinances to control rent the letting of vacant accommodation and eviction of tenants. After the War was over the Ordinances were replaced by the United Provinces (Temporary) Control of Rent and Eviction Act, 1947. This Act is not a permanent one. It is only a temporary measure enacted in order to tide over the aforesaid difficulties, which it is common knowledge, still exist. The restrictions placed by the Act upon the exercise of the fundamental rights of a citizen are not of a nature which can be described as "unreasonable." The provisions of the Act with which we are concerned in the present application merely confer upon the District Magistrate a power of fixing what in his opinion is the annual reasonable rent of a particular accommodation and if the landlord is not satisfied with that order he has been given a right to move the Civil Court to determine what the reasonable rent should be. We see nothing unreasonable in the restrictions imposed by the Act.

5. This application has no force and is dismissed with costs.