

Aijaz Hussain vs Hans Raj on 21 October, 1953

Equivalent citations: AIR1954ALL221

ORDER

Malik, C.J.

1. These Civil Revisions arise out of four suits brought by different plaintiffs against a common defendant and have been filed on behalf of the defendant for assessment of a reasonable rent under Section 5(4), U. P. (Temporary) Control of Rent and Eviction Act (3 of 1947).

2. The plaintiffs were refugees from Pakistan who came to Meerut in the winter of 1947-48. They were without shelter and were staying at the railway station. The defendant offered to let out some accommodation to the plaintiffs, which the plaintiffs accepted on the terms proposed. After the Control of Rent and Eviction Act was passed the plaintiffs filed the suits, out of which these revisions have arisen, for assessment of reasonable rent. The lower court has found that the agreements were unfair and has fixed a reasonable rent for the accommodation in possession of the plaintiffs.

Learned counsel has challenged the finding as regards the unfairness of the transaction on the ground that the mere fact that the rent agreed upon was much higher than the fair or reasonable rent would lead to no conclusion about the unfairness of the transaction. Learned counsel has relied on a decision of a learned single Judge in -- 'Agarwal & Co. v. City Board, Dehra Dun', AIR 1953 All 175 (A). It may be that in every case it may not be possible to hold that the transaction was unfair merely because the plaintiff had agreed to pay rent at a higher rate than the reasonable rent, but the learned single Judge could not have intended to hold that the rent agreed to be paid is not a circumstance to be taken into consideration in dealing with that question. The lower court was, to my mind, justified in taking this circumstance into consideration and in holding that this circumstance along with other circumstances and the evidence showed to its satisfaction that the transaction was unfair. I do not think that there is any defect of jurisdiction and this point cannot, therefore, be raised by learned counsel.

3. The other point urged by learned counsel is that the lower court erred in fixing the reasonable rent as the accommodation in suit was assessed to Municipal tax at a higher rate. Firstly, this is not a question of jurisdiction which would entitle this Court to interfere with the finding of the lower court under Section 115, Civil P. C., and secondly, learned counsel was not able to point out from any document on the record that the accommodation was assessed to Municipal tax on a valuation of Rs. 357- per mensem. Learned counsel has relied on a plea to this effect taken by his client in the written statement, but a plea in the written statement is no evidence in the case.

4. Lastly, it is urged that the house having been constructed in 1947 the Control of Rent and Eviction Act does not apply. The basis of the argument is that in the definition Section 2(f), how reasonable annual rent in the case of accommodation constructed before 1-7-1946, is to be worked out is mentioned. It is to be Municipal assessment plus 25 per cent thereon if the accommodation is separately assessed to Municipal tax. If only a part of the* accommodation has been assessed then the reasonable annual rent would be the proportionate amount of Municipal assessment of such accommodation plus 25 per cent thereon. The argument of learned counsel is that as there is no provision in this section as to how reasonable annual rent is to be worked out in the case of an accommodation constructed after 1-7-1946, the Act should be interpreted to mean that it would apply only to accommodation constructed before 1-7-1946, and not to accommodation constructed after 1-7-1946. I am not prepared to accept this argument. This jurisdiction of the court is not conferred by the definition section but it is to be found in the other provisions of the Act. Learned counsel has not been able to refer to any section in the Act in support of his contention that the Act does not apply to an accommodation constructed after 1-7-1946. As a matter of fact, the provisions of Section 3A of the Act go directly against the contention of learned counsel. Section 3A(1) deals with accommodation constructed after 30-6-1946, which must necessarily mean on or after 1-7-1946.

5. These revisions have no force and are dismissed.