Masjid Kacha Tank, Nahan vs Tuffail Mohammed on 9 January, 1991

Equivalent citations: AIR1991SC455, 1991SUPP(2)SCC270, AIR 1991 SUPREME COURT 455, 1991 AIR SCW 251, 1991 (2) SCC(SUPP) 270, (1991) 2 LANDLR 97, (1991) 1 LJR 790

Bench: B.C. Ray, M. Fathima Beevi

JUDGMENT

1. Special leave granted. Arguments heard.

2. The subject-matter of challenge in this appeal is a judgment of the High Court passed in Civil Revision No. 180 of 1985 on 7th March, 1990 setting aside the judgments of the Courts below where both the trial Court as well as the lower appellate Court conclusively found that the building is in a dilapidated condition and as such it needs to be reconstructed. The High Court in revision re appreciated the evidences and reversed the concurrent findings of the Courts below and found as follows :

> I am of the considered opinion that the authorities below have not correctly read the same with the result that wrong conclusions against the tenant have been drawn. It is clear from the evidence that the building is not in a dilapidated condition. There is no evidence that the Municipal Committee, Nahan, ever issued any notice to the landlord or the tenant in this regard. It would have been much better in case the landlord had agreed to reconstruct the premises within a particular time and put back the tenant in the premises on completion thereof. But unfortunately that has not happened.
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> It appears that both the Presiding Officers of both the Courts below have in fact inspected the building and came to the firm finding that the building is old and is in a dilapidated condition and, therefore, it needs reconstruction of the building and so the order of eviction was passed by the trial Court and the same was affirmed by the lower appellate Court.

3. It is well settled position in law that under Section 115 of the CPC the High Court cannot re appreciate the evidence and cannot set aside the concurrent findings of the Courts below by taking a different view of the evidence. The High Court is empowered only to interfere with the findings of fact if the findings are perverse or there has been a non-appreciation or non- consideration of the material evidence on record by the Courts below. Simply because another view of the evidence may be taken is no ground by the High Court to interfere in its revisional jurisdiction.

4. Considering all the facts and circum stances we are constrained to hold that the order of the High Court cannot be sustained and as such we set aside the same. We, however, direct that the landlord appellant shall take effective steps for completing reconstruction of the building within a reasonable period i.e. six months from the date the tenant/respondent vacates the building. The tenant is, however, given time till 31st March, 1991 to vacate the premises. We further direct the landlord/appellant to commence the construction work, if possible, the portion occupied by the tenant, immediately after his vacating the said premises. On completion of the construction the landlord will offer the said premises previously occupied by the tenant/respondent to occupy at the prevalent market rate of rent. The appeal is, therefore, allowed and the order of the High Court is set aside. There will be, however, no order as to costs.