

Supreme Court of India

Moti Lal And Another vs Rent Control And Eviction Officer ... on 18 February, 1993

Equivalent citations: AIR 1993 SC 2320, 1993 Supp (4) SCC 741

Bench: B J Reddy, N Venkatachala

JUDGMENT

1. Landlord is the appellant in this appeal. The matter arises under the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, hereinafter referred to as the U.P. Act. It is necessary to state a few facts leading up to this appeal.

2. The premises concerned herein is a shop, situated at Kanpur. Manohar Lal, respondent herein, was the tenant of the shop. Some time in 1975-76, one Hari Prasad filed an application before the Rent Control and Eviction Officer for allotting the said shop to him on the ground that Manohar Lal was an unauthorised occupant of the said premises. Hari Prasad's petition was allowed and he was put in possession of the shop, dispossessing Manohar Lal. Manohar Lal filed a Review Application which was allowed and the order of allotment in favour of Hari Prasad was set aside. The order in Review Petition was challenged by Hari Prasad before the learned Third Additional District Judge, Kanpur in Revision Application No. 720 of 1978. This Revision Application was dismissed. The landlord was not party to these proceedings. Pending the above proceedings, however, the landlord-appellant initiated proceedings under Section 21 of the Act on the ground that he requires the said shop bona fide for his own purpose. To this application, only Hari Prasad was made a party, but not Manohar Lal. The application was allowed. In execution of the said order, the landlord was put in possession of the said shop.

3. After all the proceedings between Manohar Lal and Hari Prasad concluded with Manohar Lal succeeding ultimately. Manohar Lal applied under Sub-section (3) of Section 18 for restitution. On the said application the authority directed the possession to be restored to him, overruling the objections of the landlord-appellant. Against the said order, the appellant filed a Writ Petition in the High Court which was dismissed in limine.

4. Another fact which is to be noticed in this behalf is that while the application of Manohar Lal under Section 18(3) was pending, the appellant appears to have filed a suit against Manohar Lal and obtained an injunction against him. But a copy of the order of injunction was not filed before the authority, a fact which has been emphasised by the authority in his order under Section 18(3).

5. The position boils down to this: Manohar Lal was the tenant. He was dispossessed in proceedings taken by Hari Prasad who claimed allotment of the said shop in his favour. Ultimately, Hari Prasad failed and the allotment order in his favour was set aside which means that Manohar Lal must be deemed to be the lawful tenant at all points of time. Now the application of the landlord-appellant Under Section 21 was allowed without notice to Manohar Lal. Manohar Lal was not impleaded as a party-respondent to the application under Section 21 filed by the landlord. Only Hari Prasad was made the respondent and order obtained. It is, therefore, clear that Manohar Lal cannot be bound by the said order under Section 21 Since he was dispossessed in proceedings under Section 16 and since he has succeeded ultimately in those proceedings, he is entitled to be put back in possession by

way of restitution and that is what the impugned order does. The authority was competent to do what he has done under Section 18(3). The High Court was, therefore, right in refusing to interfere in the matter.

6. If the landlord desires to obtain the said shop for his own bona fide requirement, he may probably have to proceed afresh against Manohar Lal, if he is so advised.

7. We see no substance in this appeal. Accordingly, it is dismissed. No costs.