

Supreme Court of India

Shafiquddin And Anr. vs Pyarelal And Ors. on 23 March, 1977

Equivalent citations: AIR 1978 SC 298 a, (1978) 1 SCC 519 a

Author: Y Chandrachud

Bench: Y Chandrachud, P Goswami, P Shinghal

JUDGMENT Y.V. Chandrachud, J.

1. Mr. Mishra on behalf of the appellants has raised in this appeal the question whether a lease of immovable property from year to year or reserving a yearly rent requires registration and whether if such a lease is not registered, it can confer any legal right or title on the so-called leases. Apart from the fact that this question is settled by a long course of decisions, it appear; to us that the question does not properly arise on the facts of the case.

2. Under a resolution passed by the Municipal Board of Budaun which is respondent 3 to this appeal, respondents 1 and 2 were put in possession of an open plot of land. They were entitled under the terms of the resolution to put up at their own cost a construction on the land but such construction was to belong to respondent 3 on the determination of the lease. Respondents 1 and 2 took appellant 2, who is the father of appellant 1, as a partner in the business which was being conducted by them in the shops constructed by them on the leasehold property. On the dissolution of the partnership, respondents 1 and 2 called upon the appellants to vacate the partnership premises, whereupon the appellants contended that they were entitled to remain in possession of the property under a lease executed by respondent 3 in their favour.

3. On these facts we are unable to appreciate how the question as regards the legal effect of a document which requires compulsory registration but has not been registered, can arise for consideration. It is common ground that no lease was executed in furtherance of the resolution passed by the Municipal Board. But Mr. Mishra contends that the resolution together with the Kabuliyat executed by respondents 1 and 2 can be looked upon as a lease and since the resolution and the Kabuliyat are not registered or at least since the Kabuliyat is not registered, respondents 1 & 2 cannot derive any right whatsoever under the agreement with the Municipal Board, We are unable to accept the submission that the combined effect of the resolution and the kabuliyat is the creation of a lease. Therefore, there being no lease in existence, the question raised by Mr. Mishra does not arise.

4. We would, however, like to confirm the view taken by the trial Court, the District Court and the High Court that under the agreement between the Municipal Board and respondents Nos. 1 and 2, the two latter were entitled to remain in possession of the lease-hold property, not as yearly tenants or under a lease from year to year or under ft lease reserving yearly rent, but for a period of one year at a time only, subject to two facilities available to respondents Nos. 1 and 2. Firstly they were entitled to pay the rent in one lump sum for the whole year and secondly, at the end of every year they were entitled to continue in possession of the leased premises for yet another year and so on.

5. Accordingly, we confirm the judgment of the High Court and dismiss the appeal. There will be no order as to costs.