

Supreme Court of India

Islam vs Gopal Dubey on 25 January, 1994

Equivalent citations: 1994 SCC (4) 459

Author: S Mohan

Bench: Mohan, S. (J)

PETITIONER:

ISLAM

Vs.

RESPONDENT:

GOPAL DUBEY

DATE OF JUDGMENT 25/01/1994

BENCH:

MOHAN, S. (J)

BENCH:

MOHAN, S. (J)

MUKHERJEE M.K. (J)

CITATION:

1994 SCC (4) 459

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. After hearing both the learned counsel, we are clearly of the view that the findings of the High Court upsetting that of the trial court and the lower appellate court, cannot be supported. Once the original period of tenancy namely, eleven months expires, it is the United Provinces (Temporary) Control of Rent and Eviction Act, 1947, that takes over. The result is the rights of the landlord and tenant are governed by this Act. In other words, the tenant becomes a statutory tenant. If that be so, the only question would be whether the permission for instituting a suit under clauses (a) to (f) of Section 3 of the Act, the permission of the District Magistrate is necessary. No doubt, in Pradesh Kumar Bajpai v. Benod Behari Sarkar¹ it was held that such a permission may be necessary. Unfortunately, the attention of the Court was not drawn to U.P. Act 44 of 1948 which stated as follows : "U.P. Act XLIV of 1948 added the following after the Explanation 1 (1980) 3 SCC 348: (1980) 2 RCR 369 'For the removal of doubts it is hereby declared that under Section 3 of the principal Act no permission of the District Magistrate is or be deemed to ever have been necessary

for filing a suit for eviction against a tenant or any of the grounds mentioned in clauses (a) to (f) of the said section.' "

2. Therefore, the judgment of the High Court has to be set aside. It is accordingly set aside and the civil appeal is allowed with costs.