

State of Uttar Pradesh

Vs

Arshad Ali Khan

Civil Appeals Nos. 352 and 353 of 1970

(A.D. Koshal, V.B. Eradi, R.B. Misra JJ)

18.08.1981

JUDGMENT

KOSHAL, J.-

1. An order of eviction from certain plots of land passed under the U.P. Land (Eviction and Recovery of Rent and Damages) Act, 1959 (hereinafter referred to as the Act) was confirmed in appeal by the Additional District Judge, Kumaon. The appellate order was sought to be revised through an application filed in the Allahabad High Court, a learned Single Judge of which held, following a judgment of a Full Bench of that Court in Raja Ram Verma v. State of Uttar Pradesh [1968 ALJ 595 (FB) : AIR 1968 All 369 : 1968 AWR 409], that the Act was ultra vires of the Constitution in its entirety and that, therefore, the eviction order had to be set aside. The application made by the respondent to the High Court was accepted solely on that ground. The order of the High Court is dated July 30, 1969 and it is that order which is impugned in this appeal by special leave.

2. Learned counsel for the parties are agreed that in view of the dictum of this Court in Maganlal Chhaganlal (P) Ltd. v. Municipal Corporation of Greater Bombay [(1975) 1 SCR 1 : (1974) 2 SCC 402 : AIR 1974 SC 2009], the Act cannot be deemed to suffer from any unconstitutionality. We hold accordingly, accept the appeal, set aside the impugned judgment and remand the case to the High Court for deciding the other points arising in the petition filed before it for revision of the order of the learned Additional District Judge. There will be no order as to costs.

[Ed. : Separate but identical judgment delivered for C.A. 353 of 1970]

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