

State of Uttar Pradesh

Vs

Bhupat and Others

Civil Appeal No. 2000 of 1971

(D. A. Desai, V. B. Eradi JJ)

19.07.1984

ORDER

1. This appeal arises from a judgment rendered by learned Single Judge of the Allahabad High Court in Writ Petition 1947 of 1968. In the writ petition, constitutional validity of U.P. Public Land (Eviction and Recovery of Rent and Damages) Act XIII of 1959 (U.P. Act for short) was questioned. The learned Judge following the decision of the full Bench of the same High Court in Raja Ram Verma v. State of U.P. (1968 All LJ 595 : AIR 1968 369 : ILR (1968) 2 ALL 141) held that the provisions of the impugned Act were violative of Article 14 because it denied equality before law and was thus ultra vires the Constitution. Against the judgment of the High Court the State of U.P. has preferred this appeal by certificate.

2. Much water has flown across the Yamuna since the decisions of the Allahabad High Court. In Maganlal Chhaganlal (P) Ltd. v. Municipal Corporation of Greater Bombay ((1975) 1 SCR 1 : (1974) 2 SCC 402 : AIR 1974 SC 2009) Constitution Bench of seven Judge of this Court upheld the validity of various provisions of the Bombay Municipal Corporation Act, 1888 which provided a different and a summary procedure for eviction from municipal premises. The impugned statute provided a different procedure and forum for recovering possession of the premises governed by it and the reasons which weighed with the Constitution Bench for upholding the validity of identical provisions of the Bombay Municipal Corporation Act would apply mutatis mutandis to the present case with the result that the judgment of the High Court cannot stand. Further in Jai Dutt v. State of U.P. ((1979) 2 SCR 175 : (1979) 2 SCC 586 : AIR 1979 SC 1303) constitutional validity of the U.P. Act was questioned. After referring to the decision in Maganlal Chhaganlal case ((1979) 2 SCR 175 : (1979) 2 SCC 586 : AIR 1979 SC 1303) it was observed that the contention that the provisions of the provisions of the impugned Act were violative of Article 14 no more survives and is concluded by the aforementioned decision. There was no alternative ground of attack. Therefore, in view of the above mentioned two decisions the challenge against the constitutionality of the impugned state cannot be upheld and consequently the decision of the High Court has to be reversed. Accordingly this appeal is allowed and the judgment of the High Court is set aside and the writ petition of the respondent is dismissed with no order as to costs.

</html