

Ram Singh and Others

Vs. Ajay Chawala

Civil Appeals Nos. 2300-02 of 1984

(Sabyasachi Mukharji, S. Ranganathan JJ)

16.12.1987

JUDGMENT

1. These appeals by special leave arise from the orders of the High Court of Delhi dismissing the second appeal on the ground that there was no substantial question of law. The only plea on behalf of the appellants was that they were claiming sub-tenancy from Shri Bhure in respect of the different portions of the premises in question. The question whether civil court had jurisdiction or not in the facts of this case was a substantial question of law. Therefore, it was submitted that the High Court committed an error of law in not allowing the appeal before it. We are unable to accept this contention. It is clear and established that the respondent is the owner of the premises in question by succession. There is no dispute as to his title. The contention of the respondent was that the appellants were in authorised occupation. The two courts on facts have upheld that contention. The High Court refused to interfere with that finding of fact. If these (sic are the) facts that is to say the respondent is the owner of the premises and the appellants are in unauthorised occupation of the premises then only the civil court will have jurisdiction to order eviction of the premises in question and no other court. On such a plea and on such finding the respondent could not have gone to any court but to the civil court for eviction. In that view of the matter, we find no ground to interfere with the orders of the High Court. Our attention was drawn to certain decisions of this Court viz. Babulal Bhuramal v. Nandram Shivram (1959 SCR 367 : AIR 1958 SC 677); Om Prakash Gupta v. Rattan Singh ((1964) 1 SCR 259, 264) and Dipak Banerjee v. Smt. Lilabati Chakraborty (AIR 1987 SC 2055 : (1987) 4 SCC 161).

2. These cases dealt with entirely different contexts and observations made therein are not material. In the aforesaid view of the matter there is no ground to interfere with the order of the High Court. These appeals therefore fail and are accordingly dismissed. There will be no order as to costs.

3. The appellants are given time to vacate the premises in question till June 30, 1988 upon filing the following usual undertaking within four weeks from today. If the rooms are locked, keys will be handed over at the time of delivery of the possession to the trial court :

(1) That the appellants will hand over vacant and peaceful possession of the suit premises to the respondent on or before June 30, 1988 from today.

(2) That the appellants will pay to respondent future compensation for use and occupation of the suit premises month by month before tenth of every month.

(3) That the appellants will pay to the respondent arrears of rent, if any, within one month from today.

(4) That the appellants will not induct any other person in the suit premises.

4. It is further directed that in default of compliance with any one or more of these conditions or if the undertaking is not filed as required within the stipulated time, the decree shall become executable forthwith.

</html