

SUPREME COURT OF INDIA

Shiv Kumar

Vs.

Sajida

Civil Appeal No. 2460 of 1997

27.03.1997

ORDER

1. Delay condoned.

2. Leave granted.

3. Haji Baqridan, the predecessor-in-interest of Respondent 1 Sajida (since deceased) and Respondent 2 Mohd. Idris moved a petition under Section 21 of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (Act No. 13 of 1972) (hereinafter referred to as the Act) for release of the shop in question and for eviction of the appellant and Respondent 4 Ram Roop, on the ground that Ram Roop Respondent 4, who was a tenant of the said premises, had vacated the premises and inducted the appellant herein in the said premises. In the petition for eviction bona fide requirement of accommodation to run business for his sons in the absence of alternative accommodation was pleaded as one of the grounds. The petition was resisted both by the original tenant i.e. Respondent 4 and the appellant herein. The prescribed authority vide judgment and decree dated 22-12-1979 found that the bona fide requirement of the landlord had been established on the basis of the evidence led by the parties. A decree directing the appellant and Respondent 4 to deliver possession of the premises to the landlord was accordingly passed. Aggrieved by the judgment and decree of the prescribed authority dated 22-12-1979, the appellant filed an appeal before the 2nd Additional District Judge. Ram Roop Respondent 4, the original tenant however, did not question the eviction order. The appellate authority vide judgment and decree dated 18-11-1980 allowed the appeal and set aside the judgment and decree of the prescribed authority. The landlord Haji Baqridan then filed a civil miscellaneous writ petition in the High Court challenging the judgment of the appellate authority. During the pendency of the proceedings in the High Court, Haji Baqridan died and his widow Ms. Sajida Respondent 1 and son Mohd. Idris Respondent 2 were substituted as his legal heirs and brought on record. Later Respondent 1 Sajida, widow of Baqridan, also died and since Mohd. Idris her son was already on record the index was corrected. The High Court allowed the writ petition and quashed the judgment and decree dated 18-11-1980 passed by the 2nd Additional District Judge, Jaunpur and restored that of the prescribed authority.

Hence this appeal by the appellant.

4. We have heard learned counsel for the appellant and examined the record. The interpretation by the High Court of Sections 21 and 23 of the Act is unexceptionable. Section 23 of the Act unmistakably provides that the prescribed authority may cause to be used such force as may be necessary for evicting any tenant against whom an order is made under Section 21 as well as against

any other person found in actual occupation for the purpose of putting the landlord in actual possession of the tenanted property. The expression "or against any other person found in actual possession" undoubtedly includes the person like the appellant, who was put in possession by the tenant after vacating the premises. By merely vacating the premises, the tenancy had not come to an end and it was open to the landlord to file a petition under Section 21 of the Act against the tenant and the subtenant along with tenant. There is thus, no force in the submission that no petition under Section 21 of the Act was competent against the sub-tenant. The finding recorded by the High Court, is sound and the High Court rightly set aside the order of the appellate authority and restored that of the prescribed authority. We are not persuaded to take a contrary view. The prescribed authority, the appellate authority and the High Court concurrently found in favour of the landlord on the question of bona fide nature of his need and the comparative hardship, the order of eviction was, therefore well merited. There is no merit in this appeal which fails and is hereby dismissed. We, however, make no order as to costs.