

Bhagwan Sri Krishenji Maharaj Virajman Mandir, Khanpur Vs Chuttan Lal

Court: Allahabad High Court

Date of Decision: Oct. 25, 1961

Acts Referred: Transfer of Property Act, 1882 " Section 106

Citation: AIR 1963 All 54

Hon'ble Judges: S.S. Dhavan, J

Bench: Single Bench

Advocate: S.B.L. Gaur, for the Appellant; D. Sanyal, for the Respondent

Final Decision: Allowed

Judgement

S.S. Dhavan, J.

This is a plaintiff's second appeal against the decision of the learned Additional Civil Judge, Bulandshahr dismissing its suit

for the ejectment of the defendant. The plaintiff is the deity of Bhagwan Sri Krishenji Maharaj Virajman Mandir Khanpur and filed this suit through

its manager Ganga Saran. It was alleged in the plaint that Ganga Saran was the manager of the deity and had let out to the defendant a plot of land

belonging to the plaintiff at a rental of Rs. 2/- per month, the tenancy commencing from the 1st of October, 1950. The defendant defaulted in

payment of rent and a notice u/s 106 of the Transfer of Property Act was served of him,

2. The defendant resisted the suit and contended that he had taken the land on lease from a man called Raghubir Saran and paid rent to him. He

denied that Ganga Saran who is alleged by the plaintiff to have made the agreement was the manager of the deity.

3. The trial Court disbelieved the defendant and decreed the suit for ejectment. In appeal the learned Judge held that the land had not been leased

out to the defendant by Ganga Saran as alleged by the plaintiff but by Raghubir Saran. He also found that the date of the commencement of the

tenancy was not the 1st of October 1950, but the Janamashthmi day of August, 1951. He also held that the question whether Ganga Saran or

Raghubir Saran had let out the land was immaterial as Raghubir Saran had not claimed any interest adverse to the deity and it was open to the

plaintiff to adopt the act of Raghubir Saran. But the learned Judge dismissed the plaintiff's suit on the ground that the notice u/s 106 of the Transfer

of Property Act was invalid. Aggrieved by this decision the plaintiff has come to this Court in second appeal.

4. I think the learned Judge was in error. The words of the notice are ""ya agar turn aur koi tareekh shuroo kiraidari ki samajhte ho to uskey lihaz se

khali kardo."" ("Or if you think that the tenancy commenced on some other date, you may vacate the land on the corresponding date"). The learned

Judge was of the opinion that the words ""uske lihaz se khali kardo"" are too vague and indefinite and, therefore, the notice to quit was not valid. I

am afraid the learned Judge has placed an interpretation on these words which is quite incorrect. The Transfer of Property Act prescribes no form

of notice nor any particular words. If the notice makes it clear to the tenant that his tenancy has been terminated and he is required to vacate the

accommodation at the end of the month (or the year) of the tenancy, it is a valid notice. In Ganga Prasad Vs. Prem Kumar Kohli it was held by this

Court that a notice requiring the defendant to vacate the premises ""on 18th May, 1944, or on such date as your then current month of tenancy will

end"" was valid. This Court has always taken the view that the object of the notice u/s 106 is to give the tenant sufficient time to vacate the premises

and such a notice should be liberally construed. The real point in such cases is that the person on whom the notice is served should understand that

his tenancy has been terminated and he is required to vacate at the end of the period of the tenancy. If the tenant attacks the notice on the ground

of vagueness he must show that its defective language caused him to misunderstand its nature. The words of the notice in the case before me are

clear and could have caused no misunderstanding in the defendant's mind. In fact the defendants' counsel did not argue that the defendant

misunderstood it. I find no justification for the view of the learned Judge that the notice is indefinite and vague.

5. Learned counsel for the respondent then argued that the plaintiff had no right to file this suit in view of the finding of the appellate Court that the

tenancy was created through Raghubir Saran and not its manager Ganga Saran. I am not much impressed by this argument. As correctly observed

by the lower Court, Raghubir Saran was not acting on his own behalf and the plaintiff could always ratify the transaction made by him.

6. This appeal is allowed and the plaintiff's suit decreed with costs throughout.

7. Leave to appeal is refused.