

Chandra Traders Through Partner Shri Ga jendra Singh (M/S) Vs Sajal Chandra and others

Court: Allahabad High Court

Date of Decision: April 2, 2012

Hon'ble Judges: Shashi Kant Gupta, J

Final Decision: Dismissed

Judgement

Shashi Kant Gupta, J.

This writ petition has been filed against the impugned order dated 29.2.2012 passed by the District Judge,

Bulandshahr in SCC Revision No. 21 of 2011 (Gajendra Singh and another Vs. Sajal Chandra and another) and the order dated 27.9.2011

passed by the SCC Judge, Bulandshahr in SCC Suit No. 39 of 2010 whereby an application of the petitioner for impleading him in Suit No. 39 of

2010 was rejected.

2. A suit was filed by the landlord Respondents No. 1 & 2 against the Respondent No. 3, Smt. Vinesh Kumari Singh on the ground of arrears of

rent and ejectment. In the plaint, it was pleaded that earlier A. P. Singh, husband of the Respondent No. 3 was the tenant of the premises and after

his death in the year 2009, the Respondent No. 3 inherited the tenancy. It was further pleaded that after the death of A. P. Singh, the premises in

dispute was sublet by the existing tenant to the petitioner.

3. During the pendency of the suit, an impleadment application was filed by the petitioner firm stating that in fact M/s Singh Traders was the tenant

of the disputed premises of which the petitioner and A. P. Singh were the partners, and after the death of A. P. Singh, his wife the Respondent No.

3, Smt. Vinesh Kumari Singh became the partner of M/s Singh Traders, as such, she was the tenant on behalf of the Firm M/s Singh Traders in the

disputed premises, therefore, the petitioner is a necessary party in the matter.

4. The landlord Respondents No. 1 & 2 filed objections to the impleadment application and pleaded that the firm M/s Singh Traders was not a

necessary and proper party. The rent receipts were being issued in favour of A. P. Singh, husband of the Respondent No. 3 and not in favour of

the petitioner. After the death of the husband A. P. Singh, she became the tenant of the disputed premises. Thus the petitioner was neither a

necessary party nor a proper party. By order dated 27.9.2011 the SCC Judge, Bulandshahr rejected the impleadment application. Being

aggrieved and dissatisfied with the with the order dated 27.9.2011, the petitioner preferred a SCC Revision No. 21 of 2011 which has also been

dismissed. Hence the writ petition.

5. Heard learned counsel for the parties and perused the record.

6. It has not been disputed by the petitioner that the rent receipts were issued in favour of A. P. Singh, husband of the Respondent No. 3, Smt.

Vinesh Kumari Singh and not in favour of the petitioner, the privity of contract was between the landlord Respondents No. 1 & 2 and A. P. Singh

and after the death of A. P. Singh Respondent No. 3 being his wife became the tenant. It has also come on record that notice under Section 106

Transfer of Property Act was issued by the landlord to the Respondent No. 3 terminating the tenancy.

7. There is one more aspect of the matter which cannot be ignored that the petitioner in its written statement has stated that her husband was not

the tenant of the disputed premises but in fact M/s Singh Traders was the tenant. Under these circumstances, the court below would be under an

obligation to frame a question on the point as to who was the actual tenant of the disputed premises in the light of the evidence which shall come on

record.

8. With this observation, the writ petition is dismissed.

9. It is made clear that the court below will not be influenced by any of the observation made in this order while determining the aforementioned

issue.