

Shri Shabd Saran (Advocate at Present Residing at 22-A Queens Road Alld) Vs Haji Mohd. Zulfikarullah

Court: Allahabad High Court

Date of Decision: Jan. 13, 1954

Hon'ble Judges: Brij Mohan Lal, J

Bench: Single Bench

Advocate: Shabd Saran, for the Appellant; Sadiq Ali, for Opposite-Party., for the Respondent

Final Decision: Dismissed

Judgement

Brij Mohan Lal, J.

These two civil revisions have been filed by the same applicant. He is a tenant of an accommodation situate in 22,

Queens Road, Allahabad. He has been in arrears of rent for over three months. The opposite-party took proceedings against him u/s 7-B of the

Temporary Control of Rent and Eviction Act, 1947, (Act No. III of 1947). This section permits a landlord to serve a notice of ejectment through

the Munsif's Court on a tenant who has not paid rent for more than three months. The Munsif, while serving the notice, calls upon the tenant to pay

up the arrears within fifteen days or to show cause within the said period why an order directing him to be evicted from the accommodation be not

passed against him. Sub-section (7) of this section provides that it is open to the tenant to file an objection (other than an objection in respect of

costs) and in the event of such an objection being filed the landlord can, on payment of court-fee, convert the proceedings into a suit. The

objections filed by the tenants are then to be decided in that suit. But a proviso added to this Sub-section lays down that a tenant ""shall not be

permitted to file any objection unless he has deposited in court the amount mentioned in the notice"".

2. The applicant, when served with notice by the learned Munsif, filed an objection but made no deposit. The learned Munsif, however, granted

him an extension of time to make such deposit. Before the expiry of this extended period the applicant came up in revision to this Court. He has

contended before me that the court below had no jurisdiction to entertain a petition u/s 7-B at the instance of the opposite-party.

3. To appreciate this contention it is necessary to narrate a few facts which are undisputed between the parties. When the accommodation in

question was let out to the applicant by the order of the Rent Control Officer, one Ghazanfar Ullah was described as the owner of the

accommodation. Later on a partition took place between him and his brother Zulfiqar Ullah (opposite-party) and by means of a registered deed of

partition the accommodation in question was allotted to Zulfiqar Ullah. After the partition Ghazanfar Ullah informed the applicant that the house had

thence forward become the property of his brother Zulfiqar Ullah. The applicant tendered rent to him (Ghazanfar Ullah) but the latter refused to

accept it informing him that the rent was payable to Zulfiqar Ullah. Zulfiqar Ullah and his counsel have shown the registered deed of partition to the

applicant to satisfy him that the accommodation in question has been allotted to Zulfiqar Ullah. Yet the applicant contends that Zulfiqar Ullah could

not maintain a petition against him u/s 7B of the Act.

4. The applicant's contention is that the term "landlord" as used in Sub-section (1) of Section 7 B means the person who was the owner of the

property at the time when allotment was made to the tenant and does not include a person who may, by act of parties or operation of law, have

acquired title to the house after the date of allotment to the tenant. He has not been able to cite any authority in support of this contention. Nor is

there any merit in this argument. The term "landlord" means a person in whom the title to the accommodation in question is vested for the time

being. If he happens to be a person who has acquired the property after the date of its allotment to the tenant he is as such entitled to maintain an

application u/s 7B as the original landlord was. The contention put forward by the applicant will lead to startling results. It would mean that if a

person purchases the house in which a tenant is already residing he can never maintain an application u/s 7-B. It may also be pointed out that the

original landlord will have no longer any interest in moving such an application because his title to the property has ceased to exist. The result,

therefore, would be that the tenant shall be at liberty to go on making defaults in paying rent with impunity and will enjoy complete immunity from

being proceeded against u/s 7-B of the Act. This could never have been the intention of the Legislature I am, therefore, unable to accept, the

applicant's contention. In my opinion the term "landlord" means a person in whom the property for the time being vests. Zulfiqar Ullah is now the

owner of the property and he can certainly maintain the petition.

5. There is no force in these revisions. They are hereby dismissed with costs.

6. The interim stay orders dated 6th May, 1953, and 12th October, 1953, are vacated.