

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.18965-18966/2000

(From the judgement and order dated 28/07/2000 in WP 19(R.C.)/99 and order dated 29.8.2000 in RP 195(w)/2000 of The HIGH COURT OF ALLAHABAD AT LUCKNOW)

PRADEEP KUMAR BANSAL

Petitioner (s)

VERSUS

GAYA PRASAD

Respondent (s)

(With Appln(s). for permission to place addl. documents on record and exemption from filing O.T.)
(For Final Disposal)

Date : 23/01/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner (s)Mr. S. Muralidhar,Adv.
Mr. Somiran Sharma, Adv.
Mr. Amit Sharma, Adv.

For Respondent (s)

Mr. Shakil Ahmed Syed,Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The judgment and order of the High Court is set aside.

The appeals are allowed in terms of the signed order. There shall be no order as to costs.

(Pawan Kumar) (Janki Bhatia)
Court Master Court Master
(signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2004
[Arising out of SLP (Civil) Nos. 18965-66 of 2000]

Pradeep Kumar Bansal Appellant (s)

VS.

Gaya Prasad Respondent (s)

O R D E R

Leave granted.

It is not in dispute that the date of construction of the premises or the date of actual occupation will have a hearing on the applicability of the Uttar Pradesh Urban Buildings (Regulation of letting, Rent and Eviction) Act, 1972. In view of the fact that the courts below did not notice the implication of Section 2(2) of the said Act, a Bench of this Court by an order dated 7.2.2003 directed the Court of Judge Small Causes, Lucknow, to determine the following question upon giving the parties an opportunity of adducing additional evidence and hearing them, and to send its finding recorded thereupon:

"What is the date of construction or actual occupation of the suit schedule premises for the purpose of application of the provisions of Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972:

Pursuant to or in furtherance of the said direction, the Judge Small Causes Court, Lucknow, has sent its finding on the said issue dated 8.5.2003 wherein it was held that the tenancy of the defendant of the disputed shop was not prior to 1985.

Having regard to the aforementioned findings of fact, indisputably the provisions of the Act would have no application.

For the aforementioned reasons, the judgment and order passed by the High Court cannot be sustained. It is set aside accordingly. The appeals are allowed. There shall be no order as to costs.

.....CJI

.....J.
(S.B. Sinha)

.....J.
(S.H. Kapadia)

New Delhi,
January 23, 2004.