

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS.5904-5905 OF 2013

STATE OF U.P. & ORS.

APPELLANT(S)

VERSUS

M/S LAXMI CHAND AND COMPANY

RESPONDENT(S)

O R D E R

1. This appeal, at the instance of State of Uttar Pradesh, questions the order of eviction passed by the trial Court as affirmed by the High Court in Civil Revision No.241 of 2010.

2. Case No.1 of 2004 was filed for eviction of the appellant. The case was titled as M/s Laxmi Chand and Company Vs. Regional Food Controller etc. It was the case of the plaintiff that a godown was let out to Regional Food Controller and the tenancy having been terminated, the landlord was entitled to decree of

eviction.

3. In the written statement filed on behalf of District Marketing Officer, Ghaziabad, it was inter alia contended that the plaintiff was not the owner of godown in question. Considering the pleadings on record, requisite issues including whether the plaintiff was owner of the premises were raised by first authority, namely, District Rent Controller and Eviction Officer.

4. We need not go into the initial stages of litigation. For the present purposes, it is enough to say that the first court, namely, the Additional District Judge, Court No.2, Ghaziabad accepted the case presented by the plaintiff and by his judgment and order dated 06.02.2010 decreed the suit. The decretal part of the order was to the following effect:-

“The instant suit is decreed in favour of the plaintiff with costs.

The Defendant is directed that he may vacate the godown in question from the date

of decision, within two months, give its possession to the plaintiff, otherwise the plaintiff shall have the right that he may through the Court, by getting vacated, get the possession of the godown in question. The Defendant is also directed that he may pay rent to the plaintiff from date 1.7.05 to 2.1.07, to total balance rent with 8% per annum, interest, and at the rate for the period from date 29.1.07 to 29.3.07 rent of Rs.22770/- with 8% interest per annum, gave to the plaintiff.

The Defendant is also directed this that he may from the date of establishment of the suit, till the date of vacation of the godown, pay rent to the plaintiff, at the rate of Rs.20,000/- (Rupees twenty thousand) per month as fine for use, otherwise the plaintiff shall have the right that he may through the Court recover all the abovesaid amount of the balance rent and fine for use etc."

5. The aforesaid judgment and order was challenged by way of filing revision in the High Court. The High Court vide its judgment and order dated 24.05.2010 affirmed the view taken by the learned trial Court and dismissed said Civil Revision. The view so taken

by the High Court is presently under appeal before us.

6. We heard Mr. V. Shekhar, learned senior counsel on behalf of the appellants. It was submitted by him that the appellants had been depositing rent @ Rs.3190 per month which amounts have since been withdrawn by the plaintiff. However, learned counsel was not able to show how the notice in the present matter was incorrect or invalid or how the plaintiffs were not entitled to maintain the action. Once it was found that the plaintiff had been able to establish its ownership, there was nothing wrong about the notice nor any infirmity could be attached. The eviction ordered by the learned trial Court as affirmed by the High Court is completely unassailable.

7. Mr. V. Shekhar, learned counsel, however, is right in his submission that since the godown is being utilised for storing food-grains and other material which are required for public distribution system, reasonable time to vacate the premises to be

given to the appellant. On the other hand, learned counsel for the respondent submitted that the appellants have already taken other premises on lease where they are paying handsome rent to the landlord. Without going into the merits or demerits of aforesaid submissions, it is suffice to say that some reasonable time must be afforded to the appellant.

8. While affirming the orders of eviction, we therefore deem it appropriate to grant time to the appellants to vacate till 30th June, 2019 and handover peaceful possession of the premises to the respondent - plaintiff. It goes without saying that the appellants shall clear all the arrears at the rate which was awarded by the trial Court in its decretal part. If the appellants have been depositing amount @ Rs.3190/-, as has been submitted by Mr. V. Shekhar, learned senior counsel, appropriate adjustment in that behalf shall certainly be made in favour of the appellants. Be that as it may, the amount at the rate awarded by the trial Court in its operative part will have to be made good and deposited within eight weeks from today. An appropriate undertaking shall also be

filed within four weeks from today that the premises shall be vacated and possession will be handed over to the respondent - plaintiff on or before 30th June, 2019. In case there be any default in furnishing the undertaking and/or in depositing the arrears within the stipulated time, the decree shall become executable forthwith.

The appeals are disposed of in the above terms.

.....J.
[UDAY UMESH LALIT]

.....J.
[DEEPAK GUPTA]

NEW DELHI
15th June, 2018

ITEM NO.103

COURT NO.5

SECTION III-A

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

Civil Appeal No(s). 5904-5905/2013

STATE OF U.P. & ORS.

Appellant(s)

VERSUS

M/S LAXMI CHAND AND CO.

Respondent(s)

Date : 15-06-2018 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE DEEPAK GUPTA
(VACATION BENCH)

For Appellant(s) Mr. V. Shekhar, Sr. Adv.
Mr. Ankur Prakash, AOR
Mr. Ashutosh Kumar Sharma, Adv.

For Respondent(s) Mr. Abhishek Atrey, AOR

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

The appeals are disposed of in terms of the signed order.
Pending applications, if any, shall also stand disposed
of.

(SWETA DHYANI)
SENIOR PERSONAL ASSISTANT

(JAGDISH CHANDER)
BRANCH OFFICER

(Signed order is placed on the file)