

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

Neutral Citation No. - 2024:AHC-LKO:63611

A.F.R.

Court No. - 19

Case :- MATTERS UNDER ARTICLE 227 No. - 5133 of 2023

Petitioner :- Harmeet Singh

Respondent :- Desh Deepak Gupta

Counsel for Petitioner :- Ratnesh Chandra,Ishan Singh
Popli,Madhav Om

Counsel for Respondent :- Gopesh Tripathi

Hon'ble Subhash Vidyarthi J.

1. Heard Shri Ratnesh Chandra, the learned counsel for the petitioner and Shri Gopesh Tripathi, the learned counsel for the opposite party.
2. The learned counsel for the opposite party does not propose to file a counter affidavit and the petition is being heard finally with the consent of the learned counsel for the parties.
3. By means of the instant petition filed under Article 227 of the Constitution of India, the petitioner has challenged validity of the judgment and order dated 15.11.2022 passed by the learned Civil Judge (Junior Division), Court No.16 Raebareli in Civil Miscellaneous Case No.630 of 2022, whereby the suit filed by the petitioner for the relief of perpetual injunction restraining the defendant/landlord from evicting him from a property in his tenancy, otherwise than in accordance with the law, has been dismissed at the admission stage on the ground that Section 38(1) of the U.P Regulation of Urban Premises Tenancy Act, 2021 (hereinafter referred to as '**the Act of 2021**') provides that no civil court shall entertain any suit or proceeding insofar as it relates to the provisions of the Act of 2021.
4. The petitioner has also challenged validity of the judgement and order dated 07.08.2023 passed by the learned First Additional District

Judge, Raebareli in Civil Revision No.35 of 2022, whereby the revision has been dismissed and the order dated 15.11.2022 passed by the Civil Judge has been affirmed.

5. Sri. Ratnesh Chandra, the learned counsel for the petitioner has submitted that the Act of 2021 has been enacted to regulate renting of premises and to protect the interests of the landlords and tenants and to provide speedy adjudication mechanism for resolution of disputes and matters connected therewith or incidental thereto. It contains provisions enabling the landlord to file a suit for ejection/ eviction of tenant and for recovery of arrears of rent and damages etc. but it does not contain any provision under which a tenant can file a suit for perpetual injunction for restraining the landlord from dispossessing him from the property in his tenancy otherwise in accordance with law.
6. The learned counsel for the opposite party contends that the landlord is not making any effort to dispossess the petitioner otherwise than in accordance with law and the petitioner has got no cause of action to file a suit against the landlord. However, he does not dispute the legal submission of the learned counsel for the petitioner that the Rent Act, 2021 does not empower the rent authority /rent tribunal to entertain a suit for perpetual injunction filed by the tenant.
7. The Uttar Pradesh Regulation Of Urban Premises Tenancy Act, 2021 [Act No. 16 Of 2021] is “*An Act to establish Rent Authority and Rent Tribunals to regulate renting of premises and to protect the interests of landlords and tenants and to provide speedy adjudication mechanism for resolution of disputes and matters connected therewith or incidental thereto.*”
8. Various sections of the Act of 2021 contain provisions for making applications by the landlord and the tenant. A tenant can file an application under Section 10 of the Act requesting the Rent Authority to determine the revised rent in case of dispute. Section 14 authorises a tenant to file an application before the Rent Authority for depositing the rent where the landlord refuses to accept any rent and other charges payable or refuses to give a receipt. Section 20 of the Act

empowers a tenant to file an application before the Rent Authority in case a landlord withholds any essential supply or service in the premises occupied by the tenant.

9. Section 21 of the Act of 2021 is titled “Protection of tenant against eviction” and it provides that “A tenant shall not be evicted during the continuance of tenancy agreement unless otherwise agreed to in writing by the landlord and tenant, except in accordance with the provisions of sub-section (2) or in accordance with the provisions of section 22” but Section 21(2) of the Act provides that on an application made to it by the landlord, the Rent Authority may make an order for eviction and recovery of possession of the premises. This Section also does not contain any provision enabling a tenant to file an application for protection against apprehended eviction otherwise than in accordance with the law.
10. Having gone through the provisions of the Act of 2021, this Court is of the considered view that the Act of 2021 confers jurisdiction on rent authority/rent tribunal to entertain petitions filed by landlord or eviction/ejectment of tenant for recovery of arrears of rent and damages etc. but there is no provision in the aforesaid act which confers jurisdiction on the rent authority/rent tribunal to entertain a suit for perpetual injunction filed by a tenant against his dispossession otherwise than in accordance with the law. Therefore, the jurisdiction of Civil Courts to entertain suits for injunction filed by tenants against their landlords, is not barred by the provisions of the Act of 2021 and the Civil Court continues to have jurisdiction to entertain the suits for injunction even after enactment of the Act of 2021.
11. By declining to admit the suit for perpetual injunction filed by the petitioner, the Civil Judge has failed to exercise a jurisdiction vested in it by law, which makes the order passed by the Civil Judge, as also the order passed by the revisional court affirming the order of Civil Judge, unsustainable in law.
12. Accordingly, the petition is **allowed**. Order dated 15.11.2022 passed by the learned Civil Judge (Junior Division), Court No.16 Raebareli and the order dated 07.08.2023 passed by the learned First

Additional District Judge, Raebareli are **set aside**. The Civil Judge is directed to pass fresh orders regarding admission of the suit keeping in view the observations made in this order.

(Subhash Vidyarthi J.)

Order Date: 13.09.2024

KR