**"Non-reportable"**

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

**SPECIAL LEAVE PETITION (C) No.27519 of 2014**

**Satendra Singh**
**.....Petitioner**

**versus**

**Vinod Kumar Bhalotia** **.....Respondent**

**J U D G M E N T**

**Jagdish Singh Khehar, J.**

1. The petitioner before this Court, took on rent the shop in question, from the respondent-landlord, in the year 1979. It is the contention of the learned counsel for the petitioner, that after taking the shop on rent, the basic rental was enhanced from time to time. Finally, the rival parties executed an agreement dated 1.8.1981, whereby the shop in question, was rented by the respondent to the petitioner, for the period from August, 1981 to June, 1982. As the petitioner did not vacate the premises on the expiry of the period depicted in the rent agreement dated 1.8.1981, a suit for the eviction of the petitioner was filed by the respondent on 24.11.1982.

2. In order to contest the suit filed by the respondent, the petitioner raised a variety of pleas. First and foremost, it was the assertion of the petitioner, that the suit filed by the respondent-landlord, was unsustainable, on account of the applicability of the provisions of the

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (hereinafter referred to as, the 1972 Act). While raising the instant contention, the petitioner adopted the stance that the shop in question had been constructed in 1970. This position was adopted because the provisions of the 1972 Act are not applicable to building, during a period of ten years, from the date of their completion. The second contention of the petitioner was, that the eviction suit was not sustainable because the notice issued by the respondent-landlord under Section 106 of the Transfer of Property Act, was invalid. The third contention of the petitioner was on the subject of the payment of rent. It was the contention of the petitioner, that the entire rent was paid to the respondent-landlord, through a demand draft. It was submitted, that the aforesaid demand draft of Rs. 3,000/- was shown to have been encashed by the respondent-landlord. It is on the above grounds, that the petitioner had contested the suit filed by the respondent.

3. Despite the fact that the suit was filed as far back on 24.11.1982, the matter has reached this Court for hearing only on 27.10. 2014. By now, 32 years have passed, since the filing of the suit. The petitioner has been successful in retaining the possession of the suit premises till date. Through the present petition, the petitioner has assailed the impugned judgment and final order dated 20.8.2014, passed by the High Court of Judicature at Allahabad (hereinafter referred to as the High Court), ordering the petitioner to vacate the premises.

4. While perusing the impugned judgment, we were dismayed by the following observations, which were recorded by the High Court, in the

impugned order, while dismissing the revision petition, filed by the petitioner:

> "While parting with the case, I am constrained to make certain observations. A simple case of arrears of rent and ejectment filed in the year 1982 against the revisionist on the basis of rent agreement executed merely for a period of 11 months has taken more than three decades to complete its journey up to this Court. It is indeed a very sorry state of affairs. Judiciary is an institution where the people repose faith. It is the justice which this institution dispenses. It is the confidence of people who approach the judiciary that it commands. It is the sanctity which strengthens the justice delivery system but it is very alarming that justice delivery system is weighed down with pending and backlog cases. The major contributing factors inter alia for this were an inadequate number of Judges and infrastructure deficiencies. Nothing short of immediate and emergent measures are required to solve this crisis, otherwise this magnificent edifice of justice will crumble down."

5. During the course of first hearing of this petition on 27.10.2014, we heard the learned counsel for the petitioner. We, however, did not find any merit, in the submissions advanced. It was at that junction, that this Court invited the attention of the learned counsel for the petitioner, to the observations recorded by the High Court (as have been extracted hereinabove). Learned counsel, then sought permission to withdraw the petition. While declining the liberty to the petitioner to withdraw the petition, this Court passed the following order:

> "Learned counsel for the petitioner states, that the petitioner may be permitted to withdraw the petition. In the facts and circumstances of this case, we decline the aforesaid prayer made by the petitioner.
>
> We consider it just and appropriate to issue notice to the petitioner, in exercise of our jurisdiction under Article 142 of the Constitution of India, as to why the petitioner should not be required to pay user charges at the rate of Rs. 1,000/- per month with effect from 1.7.1982 till date for having occupied the premises, and fought a false legal battle on false pleas. The affidavit of the petitioner be filed within four weeks from today. List thereafter."

6. In compliance, the petitioner has filed his affidavit dated

22.11.2014.

7. We may in the first instance examine the three pleas raised at the hands of the learned counsel for the petitioner. The first contention advanced at the hands of the learned counsel for the petitioner was that the suit filed by the respondent-landlord was not sustainable, in view of the provisions of the 1972 Act. For the purpose of demonstrating the applicability of the provisions of the 1972 Act, the factual assertion advanced at the hands of the petitioner was, that the shop in question, was constructed by the respondent, in the year 1970. As against the above assertion, it was the contention of the respondent, that the shop was constructed in the year 1978, and as such, the provisions of the 1972 Act, would be inapplicable, when the suit under reference was filed on 24.11.1982.

8. Having given our thoughtful consideration to the first contention, we are of the view, that the contention raised at the hands of the petitioner was clearly false to his knowledge. The same, in our view, had been raised by the petitioner, only to prolong the litigation between the parties endlessly, or with some luck to defeat the suit itself. In this behalf it would be relevant to mention, that in the rent agreement executed between the parties on 1.8.1981, it was expressly mentioned, that the shop in question was constructed in the year 1978. Interestingly the petitioner himself relied on a judgment rendered between the respondent and five other co-owners of the land, on which the rented shop, had been constructed. The said judgment recording the compromise, expressed

the respective shares of the six co-owners, in the land. The above suit was filed in 1970. It is therefore clear, that the petitioner was also aware, that the nature of property in 1970 was only land. If any building had been raised thereon, partition would have been sought in respect of land and buildings. Besides the above, the respondent-landlord while adducing evidence, had produced the first Municipal Assessment Order, depicting that the first assessment was made in consonance with the submissions advanced by the respondent-landlord.

9. Insofar as the instant aspect of the matter is concerned, it would be relevant to mention, that the provisions of the 1972 Act, are inapplicable for the period of 10 years, from the date of completion of construction of the premises. The said mandate emerges from Section 2(2) of the 1972 Act, more particularly Explanation 1(a), thereof, which provides that the construction of a building would be deemed to have been completed, on the date of which the completion thereof is recorded by the Local Authority, having jurisdiction. The respondent-landlord has established, that the construction of the premises was completed in the year 1978, to the hilt. In our view it was not justified for the petitioner-tenant to have raised such a plea, when in the rent agreement itself, it was acknowledged that the building leased out by the respondent to the petitioner, had been constructed in the year 1978. It is therefore apparent, that the first contention raised at the hands of the learned counsel for the petitioner, lacked bona fides.

10. Now, we shall deal with the second contention. Insofar as the plea under Section 106 of the Transfer of Property Act is concerned, it was the

assertion of the respondent-landlord, that there was a fixed term tenancy under the rent agreement dated 1.8.1981. The rent agreement was only for a period of 11 months, from August, 1981 to June, 1982, and that, on the expiry of the express term of tenancy depicted in the rent agreement, the petitioner did not remain the respondent's tenant. It was submitted, that on the expiry of the rent agreement, the petitioner was truly a trespasser. Accordingly no notice under Section 106 of the Transfer of Property Act was required to be issued by the respondent-landlord, before filing the suit for the eviction of the petitioner.

11. The factual position as has been noticed in the foregoing paragraph, has not been disputed by the learned counsel for the petitioner. It is, therefore, apparent that even the instant plea raised by the petitioner, was wholly frivolous, and had been raised, to somehow or the other, defeat the claim of the respondent.

12. The third contention of the petitioner, relates to the payment of rent. As against the demand of arrears of rent, raised on behalf of the respondent-landlord, it was the assertion of the petitioner, that all rental dues stood discharged. In order to demonstrate the above payment, reliance was placed by the petitioner, on the demand draft drawn in favour of the respondent-landlord, in the sum of Rs. 3,000/-. It was the assertion of the petitioner-tenant, that the aforesaid amount constituted the entire rent, payable by the petitioner, to the respondent-landlord.

13. The aforesaid claim made by the petitioner-tenant, for having discharged the liability of rent, has neither been accepted by the First Appellate Court nor by the High Court. The courts below have arrived at

the conclusion, that the demand draft in question was not issued by the petitioner-tenant, but by Pritam Medical Agency. It is nobody's case that Pritam Medical Agency had taken the shop on rent, from the respondent-landlord. It was the petitioner alone, who had been inducted as a tenant in the shop premises, vide the rent agreement dated 1.8.1981. Therefore, the payment made by the Pritam Medical Agency, to the respondent-landlord cannot be accepted as a discharge of a liability of rent, payable by the petitioner-tenant to the respondent-landlord. Not only that the petitioner-tenant was in arrears of rent, he was remained in denial all through, right up to this Court. The instant plea of the petitioner cannot be considered as innocent. Surely, the petitioner was aware, that the demand draft relied upon by him, had not been issued by the petitioner, but had been issued by Pritam Medical Agency. The said demand draft, could not establish the discharge of his rental liability towards the respondent. We therefore find no justification, in recording the view different from the clear and simple determination, on the subject of arrears of rent, rendered by the courts below.

14. For the reasons recorded hereinabove, we find no merit in the pleas raised by the petitioner-tenant.

15. The consideration recorded hereinabove demonstrates, how the process of law has been sought to be misused, to defeat a simple claim of eviction, on the expiry of a rent agreement. Even though, as already noticed hereinabove, the rent agreement was for a period from August, 1981 to June, 1982, and the petitioner should have voluntarily vacated the suit premises, and should have handed over the possession of the suit

premises voluntarily to the respondent-landlord in July, 1982, he has successfully repulsed all attempts of the respondent-landlord, to recover the possession of the suit premises. The petitioner-tenant is still in occupation of the premises even though more than 32 years have been elapsed, since the expiry of the rent agreement. It was in the instant background, that this Court had issued notice to the petitioner, calling upon him to show cause, why he should not be required to pay user charges at the rate of Rs. 1,000/- per month with effect from 1.7.1982.

16. Having considered the response of the petitioner, we are wholly satisfied, that the petitioner should be imposed with aforesaid user charges, for remaining in occupation of the rented premises, after the expiry of the rent agreement. Accordingly, while dismissing the instant petition, we direct the petitioner to pay user charges at the rate of Rs. 1,000/- per month, to the respondent-landlord commencing from 1.7.1982. The petitioner-tenant shall make the aforesaid payment, by way of a demand draft, drawn in favour of the respondent-landlord, within two months from today, and place photocopy of the same on the record of the case file, along with the receipt thereof by the respondent landlord, within three months from today. In case of non-compliance, the Registry is directed to place the instant petition for further hearing, to enforce compliance.

**.....J.**
**(Jagdish Singh Khehar)**

**…….J.**

**(Arun Mishra)**

**New Delhi;**
**December 18, 2014.**