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RAMJI DAS & ORS.

v.

TRILOK CHAND ETC.

February 25, 1970

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[J. C. SHAH, K. S. HEGDE AND A. N. GROVER, JJ.]

U.P. (Temporary) Control of Rent and Eviction Act (U.P. of 1947), s. 3—Permission granted by the Rent Control and Eviction Officer—Validity if can be challenged in suit for eviction.

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The appellant-landlord applied to the Rent Control & Eviction Officer under s. 3 of the U.P. (Temporary) Control of Rent & Eviction Act, 1947 for permission to file a suit for a decree in ejectment against the respondent-tenant. The officer granted the permission, holding that the need of the appellant to occupy the premises was *bona fide* and genuine. This order was confirmed in a revision application by the Additional Commissioner. The appellant then terminated the tenancy by notice and filed suits in the Civil Court for ejectment and arrears of rent. The trial court decreed the suits, which were confirmed by the appellate court. But in second appeal, the High Court observed that it was incumbent on the Rent Control and Eviction Officer to consider the needs of the tenant, and since he refused to consider the tenant's needs the permission was invalid, and the appellant's suits were liable to be dismissed. In appeal, this Court,

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HELD : The decision of the Rent Control and Eviction Officer was not in the suits filed by the appellant open to objection.

The proceeding under s. 3(2) before the District Magistrate or before the Rent Control & Eviction Officer, who exercises his powers as delegated under the Act, and before the Commissioner under s. 3(3) of the U.P. (Temporary) Control of Rent and Eviction Act are quasi-judicial in character. By sub-section (4) of s. 3 of the Act the decision of the Commissioner under sub-s. (3) of s. 3, subject to any order passed by the State Government under s. 7-F of the Act, is declared final. The respondent did not prefer any petition before the State Government under s. 7-F of the Act and on that account the order passed by the Additional Commissioner, exercising powers of the Commissioner under s. 3(3), became final. Finality of the order declared by s. 3(4) and s. 16 of the Act does not exclude the jurisdiction under Art. 226 of the Constitution to issue an appropriate writ quashing the order. But subject to interference by the High Court, the decision must be deemed final and is not liable to be challenged in any collateral proceeding. [817 B-D]

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Even granting that the Additional Commissioner reached a wrong conclusion, the decision was not without jurisdiction and the only avenue for correction is the one provided by the Act, *i.e.* by approaching the State Goverment under s. 7-F. [817 H]

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Asa Singh v. *B. D. Sanwal & Ors. A.I.R.* 1969 All. 474, held inapplicable.

CIVIL APPELLATE JURISDICTION : Civil Appeals Nos. 1463 and 1464 of 1969

Appeals by special leave from the judgment and order dated January 31, 1969 of the Allahabad High Court in Second Appeals Nos. 1197 and 1198 of 1967.

M. C. Setalvad, P. Parameswara Rao, K. C. Dua and *S. M. Grover,* for the appellants (in both the appeals).

J. P. Goyal and *M. V. Goswami,* for the respondents (in both the appeals).

The Judgment of the Court was delivered by

Shah, J. A common question arises in these two appeals, and we will therefore dispose it of by this common judgment.

The appellant is the owner of a house at Shamli in District Muzaffarnagar in U.P., and the respondent is the tenant of that house. The appellant applied to the Rent Control and Eviction Officer under s. 3 of the U.P. (Temporary) Control of Rent and Eviction Act, 1947, for permission to file a suit for a decree in ejectment against the respondent. By order dated June 4, 1965, that Officer granted the permission, holding that the need of the appellant "to occupy the premises was *bona fide* and genuine". This order was confirmed in a revision application by the Additional Commissioner. The appellant then terminated the tenancy of the respondent in respect of the premises by a notice as required by law and filed two suits in the Court of the Munsif, Kairana, for ejectment and for payment of arrears of rent. The Trial Court decreed the suits holding that the permission granted by the Rent Control and Eviction Officer was with "jurisdiction and was not *mala fide*". The decrees were confirmed in appeal to the District Court at Muzaffarnagar. But second appeals filed by the respondent before the High Court of Allahabad were allowed and the appellant's suits were dismissed. The High Court observed that the only question argued before the Court related to the invalidity of the permission granted by the Rent Control and Eviction Officer. The High Court further observed that since a Full Bench judgment of the Court had held in *Asa Singh* v. *B. D. Sanwal and Others*(1) that "while granting permission under s. 3 of the U.P. (Temporary) Control of Rent and Eviction Act the District Magistrate is bound to consider also the need of the tenant for the accommodation, if such a case is set up by him", and it was incumbent on the Rent Control and Eviction Officer to consider "the needs of the tenant" before making the order sanctioning institution of a suit in ejectment, and the Rent Control and Eviction Officer having "refused to consider the needs of the tenant the permission granted by the Rent Control and Eviction Officer cannot be said to be valid permission". Accordingly the High Court allowed the appeals and dismissed

(1) A.I.R. 1969 All. 474.

A the appellant's suits. With special leave, these two appeals are preferred.

The proceeding before the District Magistrate under s. 3(2) and before the Commissioner under s. 3(3) of the U.P. (Temporary) Control of Rent and Eviction Act are quasi-judicial in character. B By s. 3(4) of the Act the decision of the Commissioner under sub-s. (3) of s. 3, subject to any order passed by the State Government under s. 7-F of the Act, is declared final. The respondent did not prefer any petition before the State Government under s. 7-F of the Act and on that account the order passed by the Additional Commissioner, exercising powers of the Commissioner under s. C 3(3), became final. Section 16 of the Act provides that no order made under the Act by the State Government or the District Magistrate shall be called in question in any Court. It is true that the finality of the order declared by s. 3(4) and s. 16 will not exclude the jurisdiction of the High Court in exercise of the jurisdiction under Art. 226 of the Constitution to issue an appropriate writ quashing the order. But subject to inteference by the High Court, the D decision must be deemed final and is not liable to be challenged in any collateral proceeding.

In our view, the High Court was in error in holding that the decision of the Rent Control and Eviction Officer was, in the suits filed by the appellant, open to the objection that the Officer did not E consider the "needs of the tenant". The Rent Control and Eviction Officer had jurisdiction to hear and decide the matter. Even if we assume that he committed an error in the exercise of his jurisdiction, the error could be corrected only in a proceeding under s. 7-F of the Act by approaching the State Government and by way of a writ petition to the High Court, but the order made by the Rent F Control and Eviction Officer and confirmed by the Additional Commissioner could not be challenged in the suit.

Mr. Goyal appearing on behalf of the respondent contended that the validity of an order which has been made by the Rent Control and Eviction Officer which is contrary to the rules of natural justice, may be challenged in the suit. Reliance in that behalf was G placed upon *Shri Bhagwan and Anr.* v. *Ram Chand & Anr.*(1). But in reaching an erroneous conclusion the Rent Control and Eviction Officer does not act in a manner contrary to the rules of natural justice. The Rent Control and Eviction Officer had jurisdiction to decide the case. Granting that he reached a wrong conclusion, the decision was not without jurisdiction and the only H avenue for correction is the one provided by the Act, *i.e.*, by approaching the State Government under s. 7-F. If the State

(1) [1965] 3 S.C.R. 218

Government was not moved, the order became final and was not liable to be challenged in the suits filed by the appellant. A

The decision of the Allahabad High Court in *Asa Singh's* case(1) has no application, for it was reached in a case in which a special appeal was filed in a proceeding arising out of a writ petition. It was apparently not a case in which the validity of the permission given by the authority exercising power under s. 3 of the Act was sought to be challenged in a suit instituted by the landlord. We need express no opinion on the question whether the High Court was right in taking the view it has done in Asa Singh's case(1). B

The appeals are therefore allowed and the decree passed by the High Court is set aside and the decree of the District Court is confirmed. There will be no order as to costs in this Court. C

Y.P. *Appeals allowed.*

(1) A.I.R. 1969 All. 474.