

SATISH CHANDER AGGARWAL (D) BY LRS. A

v.

SHYAM LAL OM PRAKASH, ARHTI AND ANR.

(I. A. No. 5 of 2017)

In

(Civil Appeal No. 1464 of 2010) B

MARCH 30, 2017

[KURIAN JOSEPH AND R. BANUMATHI, JJ.]

U.P. Urban Building Act – s.21(a) – Eviction – On ground of bona fide requirement of the legal heirs of deceased landlord – Original owner-landlord filed an application for eviction on the ground of bona fide requirement for expansion of family business – Rent Controller dismissed it – First Appellate Authority reversed the finding and granted eviction, on finding that the premises was required for the business of the landlord – Aggrieved tenant filed writ petition before High Court – Meanwhile, landlord expired – High Court taking note of fact that landlord has expired, declined to go into the question of bona fide requirement and held that continuation of business by legal heirs is a distinct cause of action and same needs to be established separately – On appeal, held: No doubt, in a given case the bona fide requirement of landlord and of surviving legal heirs may vary – However, in the instant case, it is a family business and landlord has established the requirement of the premises for family business – Hence, it is not necessary to relegate the legal heirs for another round of litigation for eviction – Order passed by the First Appellate Authority restored.

Allowing the appeal, the Court. F

HELD: 1. In the instant case, it is not in dispute that the business that had been carried on by original landlord is being continued by his legal heirs. It is a family business. If that be so, the requirement, as established and which has been upheld by the Appellate Authority after conducting even a spot inspection, in our view, satisfies the requirements of bona fide need of the landlord. No doubt, in a given case the bona fide requirement of the original landlord and that of the surviving legal heirs may vary. But in the instant case, since it is family business and since the landlord has established the requirement of the premises for

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A the family business, it is not necessary to relegate the legal heirs for another round of litigation for eviction. [Para 6] [713-C-E]

2. In that view of the matter, the order passed by the High Court is set aside and the appeal is allowed. The order passed by the First Appellate Authority for eviction is restored. [Para 7]

B [713-E-F]

CIVIL APPELLATE JURISDICTION: I. A. No. 5 of 2017 in Civil Appeal No. 1464 of 2010.

From the Judgment and Order dated 15.02.2006 of the High Court of Judicature at Allahabad in WP No. 8498/88.

C A. K. Ganguli, Sr. Adv., Mahesh Srivastava, Vaibhav M. Srivastava, P. N. Puri, Sanjay Bansal, Ajay Choudhary, Advs. for the Appellants.

D Arun Aggarwal, Taranjeet Singh, Gaurav Aggarwal, Advs. for the Respondents.

E The Judgment of the Court was delivered by

KURIAN, J. 1. The original owner-landlord/Mr. Satish Chander Aggarwal (who is no more) filed an application for eviction in the year 1975 on the ground of bona fide requirement for expansion of family business in the name and style of M/s. Roop Krishna Traders.

F 2. The Rent Controller dismissed the petition. The First Appellate Authority reversed the finding and granted eviction, on a finding that the premises was required for the business of the landlord. It is on record that the First Appellate Authority had undertaken a spot inspection so as to satisfy himself as to the bona fide need of the landlord.

G 3. The aggrieved tenant carried the matter before the High Court in a petition under Article 226 of the Constitution of India. In the meanwhile Mr. Satish Chander Aggarwal died on 04.07.2005. The death occurred after the order passed by the Rent Controller as well as the First Appellate Authority.

H 4. The High Court, taking note of the fact that the original landlord has expired, declined to go into the question of bona fide requirement. According to the High Court, the bona fide requirement of the father is one thing and the bona fide requirement of the son and daughter, who have been continuing the business of the father, is a distinct cause of

action and the same need to be separately established. Therefore, granting liberty to the surviving legal heirs to pursue the eviction in accordance with law, the writ petition was allowed setting aside the order passed by the First Appellate Authority. Aggrieved the appeal. A

5. Heard Mr. A.K. Ganguli, learned senior counsel and Mr. Sanjay Bansal, learned counsel, appearing for the appellants and Mr. Arun Aggarwal, learned counsel appearing for Respondent Nos.1 and 2. B

6. The crucial question is, whether the bona fide requirement, as established by the original landlord/Mr. Satish Chander Aggarwal, would meet the requirement under Section 21(a) of the U.P. Urban Building Act as far as surviving legal heirs are concerned. It is not in dispute that the business that had been carried on by Late Mr. Satish Chander Aggarwal is being continued by his legal heirs. It is a family business. If that be so, the requirement, as established and which has been upheld by the Appellate Authority after conducting even a spot inspection, in our view, satisfies the requirements of bona fide need of the landlord. No doubt, in a given case the bona fide requirement of the original landlord and that of the surviving legal heirs may vary. But in the case before us, since it is family business and since the landlord has established the requirement of the premises for the family business, we are of the view that it is not necessary to relegate the legal heirs for another round of litigation for eviction. C

7. In that view of the matter, the order passed by the High Court is set aside and the appeal is allowed. The order passed by the First Appellate Authority for eviction is restored. I.A. No.5 of 2017 also stands disposed of. D

8. Learned counsel for the respondents submit that they are no more interested in keeping the premises, in view of the order passed as above, and hence it will be open to the appellants to take physical possession of the premises. The above submission is recorded. E

9. Pending applications, if any, shall stand disposed of. F

10. There shall be no orders as to costs. G