

CASE NO.:
Appeal (civil) 633 of 2002

PETITIONER:
SHANTI DEVI AND ANR.

RESPONDENT:
SWAMI ASHANAND & ANR.

DATE OF JUDGMENT: 20/12/2002

BENCH:
R.C. LAHOTI & BRIJESH KUMAR

JUDGMENT:
JUDGMENT

2002 Supp(5) SCR 694

The Judgment of the Court was delivered by

R.C. LAHOTI, J. The suit premises is part of a building situated in the pilgrimage city of Haridwar. The building was in occupation of four sets of tenants occupying different portions. Swami Ashanand, the respondent No.1, who is admittedly the landlord-owner, initiated proceedings for eviction against all the tenants on the ground available under Section 21(l)(a) of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972. The eviction was ordered against all the tenants. Three tenants have given up the possession over the premises in their occupation to the landlord-respondent. One of the tenants, namely Sheel Chandra, who has also expired during the pendency of these proceedings and whose widow and two sons are respectively the two appellants and proforma respondent No. 3 are pursuing the proceedings. The appellate authority has dismissed their appeal and the High Court too has dismissed their writ petition. This appeal is by special leave.

The case pleaded by the respondent No. 1 and which has been found proved by all the three Courts is that he is a sanyasi. His object in life is to preach religion and perform religious rites. He used to roam at different places. Of late, his health has gone fragile and, therefore, he proposes to stay permanently at Haridwar and live in the premises in question. The building is proposed to be materially altered by reconstructing so as to construct, along with residence, a temple wherein idol of Lord Krishnaji and Lord Shivaji Maharaj, whom the respondent worships, shall be seated. There would be a satsang hall where the respondent No.1 would be delivering sermons. There would be a puja room and a store room and a shringar room for the use of the deity. The guests coming from outside would stay in the newly constructed premises. Incidentally, he would also earn his livelihood from the offerings received from devotees.

During the pendency of the appeal, the respondent has also created a religious trust though the deed of trust does not speak of the suit premises as having been vested in the trust. The trust deed merely reaffirms the respondent's resolution for religious activities as proposed.

Section 21(l)(a) provides as under-

"21. Proceedings for release of building under occupation of tenant-(1) The prescribed authority may, on an application of the landlord in that behalf order the eviction of a tenant from the building under tenancy or any specified part thereof if it is satisfied that any of the following grounds exists namely

(a) that the building is bona fide required either in its existing form or after demolition and new construction by the landlord for occupation by

himself or any member of his family, or any person for whose benefit it is held by him, either for residential purposes or for purposes of any profession, trade or calling, or where the landlord is the trustee of a public charitable trust, for the objects of the trust;"

XXX

XXX

XXX

XXX

The singular submission of the learned counsel for the tenant-appellants has been that the purpose for which the premises are sought to be got vacated does not fall within the purview of the abovesaid provision. We do not agree. Clause (a) abovesaid is very widely worded. Demolition and reconstruction for occupation by landlord himself either for residential purpose or for purposes of any profession, trade or calling is permissible. The words 'profession, trade or calling are very wide and include therein all activities wherein a person may usefully and/or gainfully engage himself. It cannot be doubted that the respondent-landlord is a sanyasi and his calling is performance of religious activities including propagation of religion by delivering sermons and attracting devotees. Though the respondent does not appear to be carrying on such activities like a commercial activity, the fact remains that the respondent depends on such activities also to cater to his livelihood therefrom. The premises vacated by other tenants have not been re-let or made any misuse of. The major part of the building stands already vacated and it is a very small portion of the building which continues to be in possession of the appellants and unless they vacate, the proposed reconstruction cannot be carried out.

We do not find any infirmity in the impugned judgment of the High Court upholding the respondent-landlord's entitlement to eviction of the tenant.

The appeal is dismissed. However, the appellants are allowed four months time from today for vacating the suit premises and delivering peaceful vacant possession to the respondent-landlord subject to filing usual undertaking within a period of three weeks from today.