

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.23 OF 2011
[Arising out of SLP(C) No.144/2010]

Bachchu Singh

.....Appellant

Versus

State of UP & Ors.

.....Respondents

O R D E R

Leave granted.

2. Agra Development Authority, the fourth respondent herein, allotted a house to the sixth respondent and delivered possession to her on 18.9.1986.

3. The sixth respondent filed a writ petition in the year 2003 alleging that the appellant herein had illegally occupied the said house and, seeking a direction to the respondents 1 to 4 herein (State of UP, District Magistrate, Agra, Superintendent of Police, Agra and the Agra Development Authority) to evict the appellant from the house and deliver vacant possession to her. The said writ petition was allowed

by Division Bench of the Allahabad High Court by impugned order dated 25.11.2009. The High Court has not considered either the facts or the legal position. By a brief order, it narrates the aforesaid grievance of the sixth respondent that the appellant had trespassed into her house and consequently, directs the Collector, Agra to look into the matter personally and if the appellant herein is found to be a trespasser, to "throw him out" from the house within a period of one month provided there is no legal hurdle. The said order is challenged by the appellant in this appeal by special leave.

4. The appellant alleges that the sixth respondent had agreed to sell the said property in his favour in the year 1992 and in pursuance of the said agreement, had delivered possession; that the sixth respondent did not perform the contract and the appellant raised the dispute which was referred to arbitration and the Arbitrator has made an award dated 14.5.1996 which was made a rule of the Court on 29.1.1999; that the execution proceedings initiated by the appellant for obtaining a sale deed in pursuance of such award is pending; and that therefore, the question of High Court issuing a direction to the Collector to evict him does not arise.

5. The sixth respondent on the other hand contends that she had not entered into any agreement of sale with the appellant and alleges that she did not deliver possession to the appellant. According to her, the appellant having forcibly taken possession, has created documents to show an agreement of sale and the award made is illegal and liable to be set aside. Be that as it may.

6. If the appellant had illegally encroached or dispossessed the sixth respondent, the appropriate course for the sixth respondent was to file a suit or have recourse to such other remedies as may be open to her in law. The fourth respondent (the Agra Development Authority) having delivered possession of the property to the sixth respondent on 18.8.1986, any subsequent alleged dispossession of the sixth respondent by any third party, will not give any cause of action for the sixth respondent to seek a direction to either the Agra Development Authority or the State Government or its authorities to evict such person who allegedly dispossessed the sixth respondent.

7. In view of the above, this appeal is allowed, the order of the High Court is set aside, the writ petition is dismissed without prejudice to the rights of the sixth respondent to

take such action as is available to her in law to secure possession of the house, if she has been dispossessed illegally.

.....J.
(R.V. RAVEENDRAN)

New Delhi;
January 03, 2011.

.....J.
(A.K. PATNAIK)