

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 1082-1083/2017

NEENA JAIN & ORS.

Appellant(s)

VERSUS

STATE OF U.P.
DEPARTMENT OF URBAN PLANNING
SECRETARIAT THROUGH SECRETARY & ANR.

Respondent(s)

WITH

C.A. No. 1086/2017
C.A. No. 1089/2017
C.A. No. 1088/2017
C.A. No. 1085/2017
C.A. No. 1087/2017

O R D E R

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&C.A. No. 1087/2017

We have perused the additional affidavit filed by the respondent-State Government in pursuance to our order dated 15.07.2021. The affidavit makes it more than abundantly clear, apart from the provisions of the Ordinance itself, that the concerns of the appellants have been addressed. It is apparent from Section 9(3) of the

Uttar Pradesh Regulation of Urban Premises Tenancy (second) Ordinance, 2021 promulgated on 09.04.2021 (the Ordinance was since placed before the Hon'ble House on 18.08.2021 and has been passed by the Hon'ble House) that Ordinance relates to existing tenancies. Some of the relevant provisions in the Ordinance which address the concerns of the appellant as had been raised in the order dated 15.07.2021 are Section 2(c), Section 4(3), Section 7(1), Section 9(3), Section 9(4), Section 9(5), Section 9(6), Section 10, Section 21(2)(i), Section 46(2) and Section 46(3). Apart from this, Section 2(c) defines the premises covered under the Act which clearly states that the Act applies to existing tenancies as well. Not only that, the Uttar Pradesh Regulation of Urban Premises Tenancies Rules, 2021 have also been brought into force by the Notification dated 18.08.2021.

Learned counsel for the appellants has once again referred to the order dated 11.01.2021 where it was observed that the matter may be examined in the context of sub-Section 3 of Section 47 of the Act. The said provision is now Section 46 (3) of the Act. Section 46 is the Repeal and Savings provision. The earlier Act stands repealed as per Section 46(1). Naturally, the proceedings which

have already been initiated under the earlier Act and are pending are to be continued and disposed of in terms of the provisions of that Act. In terms of sub-Section 3 of Section 46, all cases and proceedings relating to any dispute between a landlord and tenant under any law other than the law repealed by sub-Section(1) pending before a Civil Court or appeal before any other Court from the date of the commencement of the Act is to be continued before such Court and disposed of in accordance with such applicable law.

We may say that even the appellants state that all the concerns have been met but some apprehension was expressed about pending litigation and revision of rent.

The provisions of the Act aforesaid apply the principle of revision of rent to existing holder tenancies also and thus, there is no doubt about it. Insofar as the claim of any arrears as submitted by learned counsel for the appellants is concerned, that will also have to be dealt with under the provisions of the new Act and thus, even on that aspect there appears to be no apprehension.

We must appreciate the endeavour of the State of Uttar Pradesh to bring a model litigation into

force balancing the interest of the landlords and tenants and we are happy that this will bring a greater commercial expediency into the tenancy regime.

With the aforesaid, we close the proceedings.

C.A. No. 1086/2017, C.A. No. 1089/2017, C.A. No.1088/2017 & C.A. No. 1085/2017

We may notice that in these batch of appeals there are some cases where the suit filed by the landlords were dismissed under Order VII Rule 11 of the Code of Civil Procedure, 1908. The revision filed against the same were also dismissed by the High Court predicated on the rationale of the impugned order. It is thus, the submission of learned counsels in these matters that these orders rejecting the plaint would have to be recalled and the suit remitted for fresh consideration in view of the new law as discussed aforesaid.

We accordingly set aside the order(s) passed in revision and by the trial Court rejecting the suits under Order VII Rule 11, CPC and restore the suits for re-consideration on the basis of the new law and the order passed by us today.

These appeals accordingly stand allowed in
the aforesaid terms.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[HRISHIKESH ROY]

NEW DELHI,
AUGUST 23, 2021.

Mr. Vikrant Singh Bais, AOR

CA 1089/2017

Mr. Mohit Chaudhary, Adv.
 Ms. Puja Sharma, AOR
 Mr. Kunal Sachdeva, Adv.
 Mr. Balwinder Singh Suri, Adv.
 Mr. Chowdhary Zulfkar Ali, Adv.
 Ms. Garima Sharma, Adv.
 Ms. Mahima Ahuja, Adv.
 Ms. Paras Mithal, Adv.
 Mr. Parveen Kumar, Adv.

Mr. Gaurav Jain, Adv.
 Ms. Abha Jain, AOR

UPON hearing the counsel the Court made the following
 O R D E R

CIVIL APPEAL NOS. 1082-1083/2017
&C.A. No. 1087/2017

The proceedings are closed in terms of the
 signed order.

Pending application, if any, stands disposed
 of.

C.A. No. 1086/2017, C.A. No. 1089/2017, C.A.
No.1088/2017 & C.A. No. 1085/2017

The appeals stand allowed in terms of the
 signed order.

Pending application, if any, stands disposed
 of.

[ASHA SUNDRIYAL]
 ASTT. REGISTRAR-cum-PS

[POONAM VAID]
 COURT MASTER (NSH)

[Signed order is placed on the file]