

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8303 OF 2019

DHIRAJ KUMAR VERMA

APPELLANT(S)

VERSUS

VIDYA DEVI (DEAD) THR. LRS. & ORS.

RESPONDENT(S)

O R D E R

1. This appeal is filed against the judgment and order dated 01.08.2014 passed by the High Court of Judicature at Allahabad in Writ A. No.20644 of 2013.

2. We have heard the learned counsel for the parties and perused the relevant material.

3. The only issue which requires consideration in this appeal is as to whether the period of three years as provided under the proviso to Section 21(1) (a) of U.P. Urban Buildings (Regulations of Letting, Rent and Eviction) Act, 1972, which stipulates that an application for release of property under the said 1972 Act by a subsequent purchaser be entertained not before three years, would mean that the application itself cannot be instituted or if filed before three years but, ultimately, allowed after three years, would be permissible in law?

4. The Prescribed Authority as also the Appellate Authority allowed the application of the landlord-appellant. However, the High Court reversed the same and dismissed the application for release of the property in question.

5. The Prescribed Authority as well as the Appellate Authority had relied upon a judgment in the case of "*Martin & Harris Ltd. vs. VI Additional Distt. Judge and Others*" reported in (1998) 1 SCC 732, which clearly decided this issue that the word '*entertain*' was interpreted to mean that an application could be filed before the Prescribed Authority before the expiry of three years but the same could not be allowed before three years and, if allowed, the same would be hit by the said provision.

6. The High Court, however, failed to consider this judgment and has proceeded to dismiss the application as it was filed prior to expiry of three years.

7. The judgment in the case of *Martin & Harris Ltd.* (supra) has been continuously followed and the ratio laid down therein has never been modified or reversed by any superior forum.

8. In view of the above, we find that the judgment of the High Court cannot be sustained.

9. Accordingly, we allow this appeal, set aside the judgment passed by the High Court and restore the order passed by the Prescribed Authority and affirmed by the Appellate Authority.

....., J.
(VIKRAM NATH)

....., J.
(K.V. VISWANATHAN)

NEW DELHI
JANUARY 11, 2024

ITEM NO.108

COURT NO.8

SECTION III-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 8303/2019

DHIRAJ KUMAR VERMA

Appellant(s)

VERSUS

VIDYA DEVI (DEAD) THR. LRS. & ORS.

Respondent(s)

(IA No. 25444/2023 - EARLY HEARING APPLICATION)

Date : 11-01-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAM NATH
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Appellant(s) Mr. Kumar Dushyant Singh, AOR
Mr. Rahul Shukla, Adv.
Mr. Bachita Baruah Shukla, Adv.
Mr. Ramandeep Singh, Adv.
Ms. Sayantani Basak, Adv.

For Respondent(s) Mr. Avijit Mani Tripathi, AOR
Ms. Preeti Sehrawat, Adv.

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

The appeal is allowed in terms of the signed
order.

Pending application(s) shall stand disposed of.

(NEETU KHAJURIA)
ASTT. REGISTRAR-cum-PS

(RANJANA SHAILEY)
COURT MASTER

(Signed order is placed on the file.)