

Court No. - 8

Case :- WRIT - C No. - 1002471 of 1993

Petitioner :- State of U.P.

Respondent :- Babu Lal

Counsel for Petitioner :- C.S.C.

Counsel for Respondent :- R.S. Pandey,P.C. Agarwal

Hon'ble Pankaj Bhatia,J.

1. Heard learned Standing Counsel for the petitioner/State and Shri Rajesh Tiwari, learned counsel for the respondent.

2. Present petition has been filed challenging the order dated 20.08.1992 whereby the appeal preferred by the petitioner against an order dated 30.08.1990 was dismissed.

3. From perusal of the order dated 30.08.1990 it is clear that the petitioner had initiated proceedings under the U.P. Public Premises Act against the respondents seeking vacation over the land in question. The said proceedings were decided after hearing the parties and the prescribed authority by means of a detailed order dated 30.08.1990 dismissed the application filed by the petitioner holding that from the notice as well as in the proceedings, it could not be established that the occupation of the respondents are in any way unauthorised. The petitioner preferred an appeal under Section 9 of the said Act which was heard and decided by means of the impugned order. While deciding the issue, the appellate authority was of the view that from the notice as well as in the evidence, there was a clear error insofar as the identification of the premise was concerned and he was of the view that the said issue can be decided only by a competent Civil Court and accordingly dismissed the appeal.

4. Learned counsel for the respondent draws my attention to the subsequent suit filed in between the parties which led to a judgment dated 15.02.2001 in favour of the respondents wherein an injunction was granted after deciding all the issues which arose in between the parties. The appeal preferred by the petitioner against the said judgment was also dismissed.

5. Considering the fact that the issue with regard to the occupation has been adjudicated by a competent Civil Court, the proceedings for eviction under the U.P. Public Premises Act were clearly misconceived and were rightly dismissed by the Courts below.

6. No interference is called for.

7. The petition lacks merit and is accordingly ***dismissed.***

Order Date :- 13.10.2023

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