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Court : Allahabad

Decided On : May-19-1978

Reported in : AIR1979All24

Judge : K.C. Agrawal, J.

Acts : Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 - Sections 3, 21 and 21(1); [Hindu Adoptions and Maintenance Act, 1956](#) - Sections 19

Appeal No. : Civil Misc. Writ No. 1923 of 1978

Appellant : Jagdish Singh

Respondent : Additional District and Sessions Judge, Dehradun and ors.

Advocate for Def. : L.P. Naithani, Standing Counsel

Advocate for Pet/Ap. : A.N. Singh, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

K.C. Agrawal, J.

1. This writ petition is directed against the judgment of the Additional District Judge, Dehradun dated 1-2-1978.

2. The only ground pressed in the writ petition was that the courts below committed an error in holding that the need of a daughter-in-law could be a basis for an application filed under Section 21 of U. P. Act No. 13 of 1972.

3. Clause (a) of Section 21 of U. P. Act No. 13 of 1972 lays down that if a building is bona fide required by a landlord either in its existing form or after demolition and new construction for occupation by himself or any member of his family the release may be made to him. The word 'family' has been defined in Section 3 (g) of the said Act. 'Family' in relation to a landlord or tenant of a building, means his or her;--

(i) spouse,

(ii) male lineal descendants,

(iii) such parents, grand parent and any unmarried or widowed or divorced or judicially separated daughter or daughter of a male lineal descendant as may have been normally residing with him or her and includes, in relation to a landlord, any female having a legal right of residence in that building.'

It is clear from a conjoint reading of Section 21 along with Section 3 (g) that an application under Section 3 (sic) (Section 21 (1) (a)?) can be filed by a landlord for the need of a family member relating to whom he is liable to maintain.

4. For the purposes of finding out the liability of a father-in-law to maintain his daughter-in-law reference may be made to Section 19 of the [Hindu Adoptions and Maintenance Act, 1956](#). Under this section a Hindu wife whether married before or after the commencement of this Act is entitled to be maintained after the death of her husband by her father-in-law. Section 3 of the said Act defines the word 'maintenance' including the right of residence. Accordingly, S. D. Bahuguna, who was the father-in-law of Shrimati Rekha Bahuguna was liable to maintain her and

to provide her a house.

5. It has come in evidence that she required the premises for her residence. The learned counsel attempted to challenge the said finding on the ground that as the accommodation available with respondent No. 1 was sufficient, the application ought to have been rejected on that ground. The submission cannot be accepted. The finding recorded by the learned Additional District Judge was that as she did not have any accommodation to live with her children she had to live in a hostel. In view of this finding the submission of the learned counsel that S. D. Bahuguna could accommodate Shrimati Rekha Bahuguna in his house cannot be accepted.

6. In the result, the writ petition fails and is dismissed with costs. The petitioner is granted three months' time to vacate the premises.

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