

State of U.P. and Another Vs. Narendra Nath Dixit and Others

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Court : Allahabad

Decided On : Jan-19-1993

Reported in : AIR1994All110

Judge : R.R.K. Trivedi, J.

Acts : Uttar Pradesh Stamp Act, 1992 - Sections 21(8); [Constitution of India](#) - Article 226; Uttar Pradesh Stamp Rules, 1942 - Rule 340

Appeal No. : Civil Misc. writ Petn. No. 2532 of 1993

Appellant : State of U.P. and Another

Respondent : Narendra Nath Dixit and Others

Advocate for Def. : Standing Counsel

Advocate for Pet/Ap. : P.K. Misra, Adv.

Judgement :

ORDER

1. These two writ petitions have been filed by State of Uttar Pradesh challenging orders dated 27th February, 1992 by which rent of the accommodation in dispute has been fixed as Rs. 5000/- p.m. under Sec. 21(8) of U. P. Act No. 13 of 1992, hereinafter referred to as 'Act', payable with effect from 1st May, 1988. There is delay of 233 days in filing these writ petitions. Learned Standing Counsel has

submitted that the delay has been explained in paragraph No. 18 of the writ petition. I have considered the explanation. In my opinion, cause shown is sufficient and delay is condoned.

2. The facts giving rise to these writ petitions are that the accommodation in dispute was let out on a monthly rent of Rs. 55/- on 18th November, 1968 which was subsequently enhanced to Rs. 700/- p.m. w.e.f. 12th September, 1980. The landlord respondent No. 1 filed an application under Section 21(8) of the Act on 18th April, 1988 and prayed for enhancing the rent of accommodation in dispute as provided under the aforesaid Act. The Rent Control and Eviction Officer by order dated 4th April, 1991 enhanced the rent to Rs. 3767/- p.m. Aggrieved by his order two appeals were filed, one appeal was filed by the State of Uttar Pradesh and another appeal was filed by respondent No. 1. The appeal of the petitioners has been dismissed by appellate authority and that of respondent No. 1 has been allowed and the rent has been further enhanced to Rs. 5000/- p.m. The aforesaid orders of the Rent Control authorities have been challenged by means of these two writ petitions under Article 226 of the Constitution.

3. I have heard learned Standing Counsel. It has been submitted that there was no evidence for the market value before the aforesaid authorities and the orders are based on no evidence. A perusal of the orders shows that the respondent No. 1 filed a notification dated 31st January, 1988 issued by Additional Collector (Finance) of that area prescribing the rate for the land in case of transfers in Mohalla Rajendra Nagar where the land in dispute is situated (the document has been mentioned as the list of circle rates). Actually these prices are required to be fixed and supplied by the Collector biennially for purposes of realisation of the stamp duty under Rule 340 of U.P. Stamp Rules'1942 which is being reproduced below:

'340. (a) Every Collector shall biennially supply to the District Registrar and such other officers as the State Government may specify, a copy of the statement showing classification of soil, circle rate and the average price of land appertaining to each such classification situate in every pargana, corporation or local body of his district.

(b)The District Registrar shall supply copies of the statement mentioned in the preceding para to the Sub-Registrars under his control and shall also forward a copy of the same to the Inspector-General of Registration, Uttar Pradesh.

(c) Every Registering Officer shall cause a copy of the above statement to be affixed outside the registration office.'

4. The Rent Control and Eviction Officer relying on this document fixed value of the open land at the rate of Rs. 700/- per sq. yard. The appellate authority has, however, disagreed with this finding and fixed the value of land at the rate of Rs. 1000/ - per sq. yard. The reason given is that the accommodation in dispute is situated by the side of the municipal road and for such land the value prescribed is Rs. 1000/- per sq. yard. The rate of Rs. 700 per sq. yard is prescribed for such land which is situated away from the road. In my opinion, the finding given is based on material on record. The submission of the learned Standing Counsel that there was no evidence of the market value, cannot be accepted. Under the provisions of the U. P. Stamp Rules, the Collector is under obligation to prescribe these rates on the basis of the prevailing market rate in the area. As the prices are fixed under statutory provisions by the agency of the State itself, the rate so prescribed are binding on State until shown or proved to be incorrect. However there is no evidence whatsoever adduced on behalf of petitioner in this regard. In absence of any evidence by the side of the petitioners the authorities have rightly determined the value of the land on basis of the notification issued on 31st January, 1988: The orders do not suffer from any error of law.

5. The learned Standing Counsel then submitted that by order of the appellate authority the rent fixed was payable from 1st May, 1988 and petitioners may be allowed some time to pay arrears from 1st May, 1988. However, the current rent from the month of January, 1993 shall be paid by the, petitioners at the rate fixed by the appellate authority. Considering facts and circumstances of the case, it is directed that the realisation of arrears of rent fixed by the impugned orders for the period of 1st May, 1988, to 31st December, 1992 which comes to Rs. 2,80,000/' shall remain stayed provided it is paid by the petitioners in four equal instalments of Rs. 70,000/- each. The first instalment shall be paid on 1st April, 1993 and

remaining three instalments shall be paid on or before 30th June, 30th September and 31st December, 1993 respectively. In case of default in payment of any of the instalments it shall be open to the landlord to realise the whole amount through court. So far as the current rent is concerned, it shall be paid by the petitioners from the month of January, 1993.

6. Subject to aforesaid directions, both the writ petitions are disposed of finally.

7. Order accordingly.

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