

Union of India and Another Vs. Vth Additional District Judge, Agra and Others

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Court : Allahabad

Decided On : Nov-19-1999

Reported in : 2000(2)AWC965

Judge : Yatindra Singh, J.

Acts : Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 - Sections 2, 2 (1), 3, 21, 21 (1) and (8)

Appeal No. : C.M.W.P. No. 48443 of 1999

Appellant : Union of India and Another

Respondent : Vth Additional District Judge, Agra and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Devi Shankar Shukla, Adv.

Judgement :

Yatindra Singh, J.

1. The sole question involved in the writ petition is, whether the U. P. Urban Buildings (Regulation of Letting. Rent and Eviction) Act. 1972 (the Act) is

applicable to the building let out to the Central Government. This is how it arises.

FACTS

2. The respondent Nos. 3 to 6 are the landlords of the premises in dispute. They filed an application for eviction of the petitioner under Section 21(1) (a) of the Act. This application was allowed by the Prescribed Authority on 13.1.1997 (Annexure-2 to the writ petition) holding that the need of the landlord is bona fide and greater hardship will occasion to him in case his application is rejected. The petitioners' appeal was dismissed on 11.8.1999. Hence the present writ petition.

THE ACT IS APPLICABLE

3. The counsel for the petitioner has submitted that application under Section 21 (1) (a) of the Act is not maintainable, as the Act does not apply to a building let out to the Central Government. He also relies upon a Supreme Court decision In State of U. P. v. Malik Zarid Kholid. Section 3 (o) defines 'public building'. It includes a building let out to the Central Government, but this does not help the petitioner. Section 2 exempts a building from the operation of the Act. It enumerates different buildings, mentioned in different sub-sections that are so exempted. In these sub-sections, neither public building has been mentioned ; nor any building let out to Central (Union) Government is mentioned. Any building let out to the Central Government is not exempted from operation of the Act merely for that reason. The Act is applicable to the building let out to the Central Government. '

THE MALIK ZARID CASE

4. The Malik Zarid case is not applicable to the present case, as Section 2 of the Act at that time (when decision was rendered) was different. Sub-Section 2 (a) at that time included public building. Public buildings were exempted from operation of the Act at that time. Since then Section 2 has been amended. Now it does not Include 'public building'. It merely includes building of which Government or a local authority or Public Sectors Corporation or a Cantonment Board is the landlord. It does not include a building if the Government is a tenant. The decision of the Apex Court in the Malik Zarid case is not applicable as the law stands today: No

submissions were advanced that the application under Section 21 (1) is not maintainable due to bar under Section 21 (8) of the Act. Even otherwise, I have already held that bar of Section 21 (8) does not apply to a building let out to the Central Government.

5. The writ petition has no merit. It is dismissed. However, the petitioner is running a post office in the premise in dispute. Sometime may be necessary to find an alternative accommodation in view of this, the petitioner may not be evicted for a period of six months from today.

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