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**Siddharth Kumar Vs. Xith Additional District Judge, Allahabad and ors.**

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**SooperKanoon Citation : [sooperkanoon.com/472888](http://sooperkanoon.com/472888)**

**Court : Allahabad**

**Decided On : Mar-07-2002**

**Reported in : 2002(2)AWC1557**

**Judge : Anjani Kumar, J.**

**Acts : Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 - Sections 7**

**Appeal No. : C.M.W.P. No. 9728 of 2002**

**Appellant : Siddharth Kumar**

**Respondent : Xith Additional District Judge, Allahabad and ors.**

**Advocate for Def. : S.C.**

**Advocate for Pet/Ap. : Arvind Kumar Tiwari, Adv.**

**Disposition : Writ petition dismissed**

**Judgement :**

**Anjani Kumar, J.**

1. This writ petition was dismissed by me vide order dated 7.3.2002, for the reasons to be recorded later on. Now here are the reasons for dismissing the writ petition.

2. Petitioner who is a tenant filed this writ petition against the order of the revisional court whereby the Revisional Court has confirmed the decree passed by the Judge, Small Causes Court. Allahabad.

3. Facts leading to the filing of the present writ petition are that it is an admitted case of the petitioner who is tenant of the respondent No. 3 landlord of the accommodation in question. A suit was filed after determining the tenancy by a notice under Section 106 of Transfer of Property Act on the ground of non-payment of arrears of rent and for the relief of eviction. The defence taken by the petitioner-tenant was that Rs. 30 per month was the rent payable by the tenant to the landlord and there was no agreement that water tax shall be payable by the tenant. Apart from above, the tenant has also taken the defence that neither there is any water connection nor water pipe in the premises in question and the same has never been provided by the landlord. In this view of the matter, the defence set-up by the tenant was that he is not liable to pay water tax in any view of the matter. Admittedly, the provisions of Act No. 13 of 1972 are applicable to the present case. Section 7 of U. P. Act No. 13 of 1972 provides that apart from the rent, the tenant shall be liable to pay the water tax of the building in proportion of the accommodation let out to him. Thus, the payment of the water tax under the Act is statutory liability of the tenant. The tenant has not demonstrated either before the trial court or before the revisional court that the rent payable by the tenant includes water tax or there is any such agreement between the landlord and tenant. In absence of any such agreement, in my view, the trial court has rightly come to conclusion that since the tenant has not paid water tax, he is defaulter and, therefore, he is liable for eviction. The findings recorded by the trial court and affirmed by revisional court do not warrant any interference on this account. So far as the argument, that since there is no water connection or pipeline in the accommodation in question, therefore, the tenant is not liable to pay water tax or proportionate water tax is concerned, in this view of the matter, suffice it to say that under the provisions of U. P. Nagar Mahapalika AdhIniyam, 1959 and the provisions of U. P. Municipalities Act, the local body concerned is entitled to realise the water tax from a building even though the building had no water connection. if the building is situated within 600 feet of the municipal stand pipe or pipeline. It has neither been pleaded by the tenant that the building, the portion

whereof is under his tenancy, is not subject to the water tax and in this view of the matter, the defence set-up by the tenant is untenable and trial court has rightly decreed the suit. Aggrieved by the order of the trial court, the petitioner-tenant approached the revisional court raising the same plea which affirmed the decree passed by the trial court.

4. I have heard learned counsel for the petitioner who has advanced the same argument which was advanced before the two courts below. Learned counsel, for the petitioner tried to assail the findings recorded by the trial court affirmed by the revisional court on the ground on which it has been assailed before the trial court and revisional court.

5. In my opinion, there is no error of law in the findings recorded by the trial court and revisional court.

6. This writ petition, therefore, deserves to be dismissed and is hereby dismissed.

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