

Hari Om Gupta Vs. iind Additional District Judge and ors.

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Court : Allahabad

Decided On : Apr-05-2002

Reported in : 2002(2)AWC1708

Judge : Anjani Kumar, J.

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

Appeal No. : C.M.W.P. No. 11431 of 1984

Appellant : Hari Om Gupta

Respondent : iind Additional District Judge and ors.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : S.D. Singh, Adv.

Disposition : Petition dismissed

Judgement :

Anjanl Kumar, J.

1. After the notice has been held to be sufficient, with the consent of the learned counsel for the parties, this petition is finally disposed of, since it is fairly old petition of the year 1984.

2. This writ petition, under Article 226 of the Constitution of India, filed by the landlord against the order of the appellate authority, passed under Section 22 of the U. P. Act No. 13 of 1972. whereby the appellate authority has reversed the findings and conclusion arrived at by the prescribed authority on an application filed by the petitioner-landlord under Section 21 (1) (a) of U. P. Act No. 13 of 1972.

3. The petitioner-landlord filed the aforesaid application under Section 21 (1) (a) of the Act on the ground that since he is living in a tenanted house, which is in dispute in the present writ petition under the new Act and the house in which the petitioner is residing on a tenancy, has made efforts to get him evicted on the ground that the petitioner has his own house in the same local area. On the strength of this averment, the prescribed authority accepted the application and released the accommodation in question, which was the subject-matter of appeal before the appellate authority under Section 22 of U. P. Act No. 13 of 1972. The appellate authority has arrived at a conclusion that the accommodation of the landlord cannot be said to be bona fide required as contemplated under Section 21 (1) (a) of U. P. Act No. 13 of 1972 as held by Apex Court in the case of Mst. Bega Begum and Ors. v. Abdul Ahad Khan (dead) by L.R.'s and others, AIR 1979 SC 272. I have perused the application filed by the petitioner under Section 21 (1) (a) of the Act. According to the law laid down by Apex Court in Mst. Bega Begum's case (supra), the application of the landlord in the present Writ petition deserves to be dismissed and appellate authority has not committed any error of law in reversing the order of the prescribed authority in dismissing the application filed by the landlord.

4. Learned counsel for the petitioner Sri S. D. Singh has argued that if the reply of the contention to the paragraph Nos. 7 and 8 of the application filed by petitioner before the prescribed authority is considered, then it would be apparent that the prescribed authority has not committed any error as found by the appellate authority.

5. This contention of Sri Singh deserves to be rejected as according to the plain reading of Section 21 (1) (a) of the Act, which is quoted below :

'21 (1) (a) that the building is bona fide required either in its existing form or after demolition and new construction by the landlord for occupation by himself or any member of his family, or any person for whose benefit it is held by him, either for residential purposes or for purposes of any profession, trade or calling, or where the landlord is the trustee of a public charitable trust, for the objects of the trust.'

6. Upon a bare reading, the aforesaid section demonstrates that it is landlord who has to satisfy the prescribed authority regarding his need as contemplated under the aforesaid application without entering into the stand taken by the tenant. In this view of the matter, this argument of Sri Singh cannot be accepted.

7. In view of what has been stated above, this petition lacks merit and deserves to be dismissed. It is accordingly, dismissed. However, the parties shall bear their own costs.

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