

Y.M. Pathak Vs. Vice Chairman, Varanasi Development Authority and Others

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Court : Allahabad

Decided On : May-05-1999

Reported in : 1999(3)AWC2190; (1999)2UPLBEC1583

Judge : D.S. Sinha and ;Lakshmi Bihari, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : C.M.W.P. No. 12160 of 1993

Appellant : Y.M. Pathak

Respondent : Vice Chairman, Varanasi Development Authority and Others

Advocate for Def. : A.K. Dwivedi and ;Naresh Chandra Tripathi, Advs.

Advocate for Pet/Ap. : Umesh Narain Sharma and ;J.P. Rai, Advs.

Judgement :

D.S. Sinha, J.

1. Heard Sri J. P. Rai holding brief of Sri U. N. Sharma the learned counsel of the petitioner. Sri A. K. Dwivedi learned counsel representing the respondent Nos. 1 and 2 and Sri Naresh Chandra Tripathi, learned counsel appearing for the respondent No. 3, at length and in detail.

2. By means of this petition under Article 226 of the [Constitution of India](#), the petitioner urges this Court to issue a writ, order or direction in the nature of mandamus directing the respondents to allot and sell the accommodation No. M-4, Gulab Bagh Housing Scheme, Varanasi which was initially allotted to him on rent as tenant in accordance with the resolution dated 15th November. 1993 passed by the Varanasi Development Authority, Varanasi.

3. At the outset, it will be apposite to notice that the alleged resolution dated 15th November, 1993 has not been produced before the Court.

4. To the writ petition a copy of resolution dated 15th November, 1988 alleged to have been passed by Varanasi Development Authority, has been appended as Annexure-VI. A perusal of this resolution reveals that the Varanasi Development Authority had granted approval to the proposal for selling the properties to the allottee occupants thereof. May be the petitioner is such occupant. But the resolution by itself, does not create in favour of the petitioner any legal right to have the sale of the house in question executed.

5. No other material has been produced before the Court by the petitioner to fortify his alleged claim for sale of the house in question in his favour. In any event, in substance, the petitioner purports to pray the Court to enforce the agreement of sale. The Jurisdiction under Article 226 of the [Constitution of India](#) cannot be permitted to be invoked for this purpose.

6. All told, in the opinion of the Court, the petition is devoid of merits. Accordingly, it is dismissed. The interim order dated 7th April, 1993 is vacated.