

Narendra Kumar Sharma and anr. Vs. Rent Control and Eviction Officer and anr.

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SooperKanoon Citation : sooperkanoon.com/488756

Court : Allahabad

Decided On : Aug-25-2004

Reported in : 2005(1)AWC185

Judge : Anjani Kumar, J.

Acts : Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 - Sections 12 and 16

Appeal No. : C.M.W.P. No. 9075 of 1984

Appellant : Narendra Kumar Sharma and anr.

Respondent : Rent Control and Eviction Officer and anr.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : V.K. Gupta, Adv.

Disposition : Petition allowed

Judgement :

ORDER

Anjani Kumar, J.

1. The proceedings initiated on the application of respondent No. 2, Mahesh Chand Sharma who inspite of due service of notice has chosen not to appear before this Court the Rent Control and Eviction Officer, Aligarh has passed an order under Section 16 read with Section 12 of U.P. Act No. 13 of 1972 declaring the vacancy in accommodation in dispute, which is owned by the petitioner. It is admitted case, as would be clear from the assertions made in the writ petition as well as in the impugned order that before passing the impugned order the petitioner, owner/landlord has not been afforded any opportunity of hearing by the Rent Control and Eviction Officer as held in the case in 1984 (2) ARC 7 and 2002 (2) ARC 434 that the District Magistrate while declaring the vacancy or passing an allotment order exercises quasi judicial function, therefore, even if there is no such provision either in the provisions of Section 16 of U.P. Act No. 13 of 1972 or in the Rules 8 and 9 of U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Rules. 1972, the petitioner being owner and landlord was entitled for opportunity before passing the impugned order.

2. In this view of the matter, the writ petition succeeds and is allowed only on this point. The matter is sent back to the Rent Control and Eviction Officer, Aligarh to be decided in accordance with law after affording opportunity to the petitioner. Since the matter is fairly old. therefore, the Rent Control and Eviction Officer is directed to decide the same within three months from the date of presentation of certified copy of this order before him.