

Kalawati (Smt.) Vs. Ivth Additional District Judge and ors.

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Court : Allahabad

Decided On : Jul-20-2004

Reported in : 2005(1)ARC185

Judge : Anjani Kumar, J.

Acts : Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 - Sections 14 and 18; Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) (Amendment) Act, 1976

Appeal No. : C.M.W.P. No. 17377 of 1986

Appellant : Kalawati (Smt.)

Respondent : ivth Additional District Judge and ors.

Advocate for Def. : S.M. Dayal, Adv.

Advocate for Pet/Ap. : R.N. Bhalla, Adv.

Disposition : Petition allowed

Judgement :

Anjani Kumar, J.

1. This is landlady's writ petition against the order passed by the Revisional Court under the provisions of U.P. Act No. XIII of 1972 whereby the Rent Control and

Eviction Officer's order has been set aside whereby he declared vacancy of the accommodation in question and released the same in favour of the landlady. The Revisional Court interfered with the order passed by the Rent Control and Eviction Officer on two grounds--firstly, the transfer certificate issued in favour of the brother of the contesting respondent from a college at Kanpur clearly demonstrates that the brother was residing in the accommodation in question and secondly, in any view of the matter on coming into force of U.P. Act No. XXIV of 1976 the occupation of contesting respondent stands regularised.

2. Sri R.N. Bhalla, learned appearing for the petitioner states that both these views taken by the Revisional Court suffer from manifest error inasmuch as the same is firstly perverse and contrary to the records and secondly, in view of the phraseology of Section 18 of the Revisional Court has acted with material irregularity in interfering with the order passed by the Rent Control and Eviction Officer. Sri Bhalla further submitted that merely because transfer certificate refers to the address of the premises in question as respondent is the brother of the tenant, even assuming him to be a tenant, does not and possibly cannot be possessed when admittedly the contesting respondent has been transferred from Kanpur to Izat Nagar, Bareilly.

3. With regard to regularization of the accommodation there is no finding by the Revisional Court nor Revisional Court has upset the finding recorded by the Rent Control and Eviction Officer that in fact there is no consent, even assuming, that contesting respondent was still living in the accommodation in question so as to give him a right for regularization under Section 14 of the Act No. XIII of 1972 as amended by U.P. Act No. XXIV of 1976. Sri S.M. Dayal could not rebut this argument.

4. The order passed by the Revisional Court deserves to be quashed and hereby quashed. The matter may again be decided by the Revisional Court in the light of the observation made in this judgment and also in accordance with law.

5. Since the matter is fairly old the Revisional Court is directed to decide the matter within the period of three months from the date of presentation of a certified copy of this order.

6. The writ petition is allowed.

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