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Court : Allahabad

Decided On : Dec-03-2004

Reported in : 2005(1)ARC678

Judge : Vikram Nath, J.

Acts : Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1947 - Sections 3; Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act (Amendment), 1972 - Sections 21(1) and 21(7)

Appeal No. : W.P. No. 5944 of 1984

Appellant : Bharat Bhushan and ors.

Respondent : Vith Additional District Judge and ors.

Advocate for Def. : Pankaj Mittal, Adv.

Advocate for Pet/Ap. : R.K. Misra, Adv.

Disposition : Petition allowed

Judgement :

Vikram Nath, J.

1. This writ petition has been filed by the tenant for quashing the judgment and order dated 5.4.1984 and 8.11.1979 passed by the respondent Nos. 1 and 2

respectively, whereby the application of the landlord respondent No. 3 under Section 3 of the U.P. Act No. III of 1947 was allowed by the Prescribed Authority and the appeal filed against the same was dismissed.

2. The dispute relates to house No. 239 (new 339), situated in Mohalla Ishwarpuri, Meerut City, Meerut, Murrari Lal the landlord, respondent No. 3 set up need of the premises in dispute for his own use and for the use of his family members on the ground that the existing accommodation is not adequate and further on the ground that he was living in a rented accommodation and wanted to live in his house. Initially, the application was rejected by the Prescribed Authority. Later on Murari Lal filed another application under Section 21 (1) (a) of the U.P. Act 13 of 1972, and the Prescribed Authority by order dated 8.10.1979 allowed the release application and directed for eviction of the petitioner holding that the need set up by the landlord was genuine and bona fide and further that the petitioner would not suffer any hardship as he had purchased a plot and he could make constructions on the same. Aggrieved by the same the petitioner filed an appeal, which was dismissed vide order dated 5.4.1984. Aggrieved by the same the petitioner has filed present writ petition, in which he is enjoying an interim order since 24.4.1984.

3. I have heard Sri R.K. Mishra, Advocate, holding brief of Sri Neeraj Agarwal, learned Counsel for the petitioner. On behalf of Sri Pankaj Mittal, appearing for the respondent No. 3, statement has been made that he has no instructions in the matter.

4. Learned Counsel for the petitioner has urged that during pendency of the petition Murari Lal respondent No. 3 who had set up the need for the premises in dispute for self and his family members has sold the property in dispute by a registered sale deed dated 15.1.2002 in favour of Sri Rajendra Kumar. The sale deed has been annexed as Annexure-1 to the affidavit filed alongwith an application dated 5.2.2002 being Civil Misc. Application No. 26606 of 2002. Sri R.K. Mishra, Advocate has made statement that copy of the said application was served on Sri Pankaj Mittal, Advocate also and the endorsement of receipt dated 19.2.2002 is available on his office copy. The need set up by Murari Lal, thus completely vanished after the execution of the sale deed by him in favour of

Rajendra Kumar.

5. Subsequent purchaser cannot pursue this application for release up on the basis of the need of Murari Lal and his family members. The subsequent purchaser is not a member of the family of Murari Lal. The subsequent purchaser will have to establish his own bona fide need to get the premises vacated. This is also legal provision laid down in the Section 21 (7) of the Act. Learned Counsel for the petitioner has relied upon the judgment of the Court reported in 1992 All CJ Page 1062 for the proposition that where the landlord during pendency of the proceedings has transferred the premises dispute, then need of the landlord stands finished and the purchaser has to set up and establish his own independent need.

6. Considering the facts and circumstances of the cases, the need of the landlord Murari Lal for release would no longer be maintainable and will have to be rejected. Accordingly, the writ petition succeeds and is allowed and impugned order dated 5.4.1984 and 8.10.1979 passed by the respondents No. 1 and 2 as set aside and the release application filed by Murari Lal is also dismissed.

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