

(1982) 05 AHC CK 0005

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 14350 of 1981

Bhool Chand

APPELLANT

Vs

Smt. Shail Sharma and Another

RESPONDENT

Date of Decision : 14-05-1982

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151, 152
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21, 21(1)
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Rules, 1972
— Rule 22

Citation : (1982) AWC 455

Hon'ble Judges : K.M. Dayal, J

Bench : Single Bench

Advocate : H.N. Sharma, for the Appellant; L.P. Naithani, for the Respondent

Final Decision : Allowed

Judgement

K.M. Dayal, J.—Heard Sri L.P. Naithani, appearing for the Respondent.

2. The present petition arises out of an order rejecting the application for amending the objection to the petition u/s 21(1) of the U.P. Urban Bindings (Regulation of Letting, Rent and Eviction) Act, 1972. The amendment sought in the objection was that the land under the property in dispute was on lease form Darbar Shri Guru Ram Raiji Maharaj, Dehradun. The son of the tenant had entered into an agreement of lease with the aforesaid owner of the land. There is no allegation that the tenant's son had purchased the building standing on the land. Under the circumstances apparently the Defendant's son had acquired some interest in the land over which the building in dispute stands, if his allegations were correct.

3. The learned Counsel for the Respondent argued that the building is still owned by the landlord and he continues to be the landlord, in respect of the same. He also disputed the factum of purchase or agreement to purchase in favour of the

son of the tenant.

4. The Prescribed Authority rejected the application with an observation that probably the bonafide of the applicant are not effected nor it has any impact with the enquiries u/s 21 of Act No. 31 of 1972.

5. Rule 22 framed under the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 gives certain powers to the Prescribed Authority in matters of procedure. Some provisions of CPC have been made applicable to proceeding under the Act. Power to allow amendment of application etc. is prescribed by Clause (d) of Rule 22. Clause (f) of the same Rule makes Sections 151 and 152 of CPC applicable. As there has been some change in the rights or status of the panics it was in the interest of justice that the objection be permitted to be amended u/s 151 of the Code of Civil Procedure. The matter may be adjudicated completely and multiplicity of proceedings avoided.

6. The Prescribed Authority failed to exercise jurisdiction vested in hint under Rule 22 framed under the Act.

7. The disputes arising out of the amended reply may be decided by the Prescribed Authority, while disposing of the application u/s 21(1) of the Act on merits. The Defendant's plea about his son having become lessee of the land should not have been shut out.

8. In the result, the present petition is allowed and the order Annexure "I" is quashed. The Prescribed Authority is directed to proceed with the proceedings and decide the amendment application in the light of the observations made above. There will be no order as to costs.