

(1988) 12 AHC CK 0057

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 15079 of 1987

Central Bank of India and Others

APPELLANT

Vs

II Additional District Judge and Others

RESPONDENT

Date of Decision : 23-12-1988

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21(8), 3

Citation : (1989) 1 AWC 403

Hon'ble Judges : N.N. Mithal, J

Bench : Single Bench

Advocate : Rakesh Bahadur, for the Appellant;

Final Decision : Dismissed

Judgement

N.N. Mithal, J.—This is a tenant's petition under Article 226 of the Constitution challenging the order of the Prescribed Authority and the Appellate Authority passed u/s 21(8) of U.P. Act XIII of 1972. The sole question which arises for consideration is whether the market value of the building will also include the market value of the land over which the building is situated and its appurtenant land.

2. Sri. S.N. Verma, learned Counsel for the Petitioner, vehemently urged that the market value of the building should not include the market value of the land or at least the land appurtenant to the building. It is difficult to agree with the submission of the learned Counsel. The proviso to Sub-section (8) of Section 21 reads as under-

Provided that in the case of such a building the District Magistrate may, on the application of the landlord, enhance the monthly rent payable there for to a sum equivalent to one-twelfth or 10% of the market value of the building under tenancy, and the rent so enhanced shall be payable from the commencement of the month of tenancy following the date of the application.

3. The word "building" has been defined in Section 3(i) and it includes any land (including any garden), garages and out-houses, appurtenant to such building, apart from furniture and other fittings and fixtures etc. A reading of this definition along with the proviso to Sub-section (8) makes it clear that the building and the appurtenant land cannot be separated and they form part of the building which is covered under the Act. When the provision speaks of market value of the building, it speaks of its market value including the vacant land with all its situational and other advantages. "Market value" is a term of wider import than the cost of the building because it includes the advantages accruing to the owner on account of inflation, paucity of accommodation available and the situation of the building etc. In view of this, in my opinion market value of the property will include the cost of structures, the site of the building and the appurtenant land.

4. In view of the above, the writ petition has no merit and is accordingly dismissed. There will be no order as to costs.