
(2012) 10 AHC CK 0038
In the Allahabad High Court
Case No : C.M.W.P. No. 2727 of 2003

Central Consumer Co-operative Stores Ltd.	APPELLANT
Vs	
Vipin Kumar and Another	RESPONDENT

Date of Decision : 09-10-2012

Acts Referred:

Companies Act, 1956 — Section 3
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21, 21(8), 3(p)

Citation : (2013) 2 ALJ 33 : (2013) 1 AWC 662 : (2013) 1 RCR(Rent) 405

Hon'ble Judges : Sudhir Agarwal, J

Bench : Single Bench

Advocate : Santosh Kumar Pandey, for the Appellant; B. Dayal S.C., for the Respondent

Final Decision : Dismissed

Judgement

Sudhir Agarwal, J.—This writ petition is directed against the order dated 6.7.2001 passed by Rent Control and Eviction Officer, Moradabad (hereinafter referred to as the "R.C.E.O.") rejecting petitioner's objection that Section 21 (8) of U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (hereinafter referred to as the "Act, 1972") is not applicable to petitioner, who is a Consumers Co-operative Society registered under Co-operative Societies Act. Learned counsel for the petitioner submitted that petitioner is a Society dealing with general public and, therefore, is excluded from application of Section 21 sub-section (8) of Act, 1972.

2. The submission is thoroughly misconceived and in fact no material and pleading is available on record to demonstrate in any manner that Section 21 (8) would not apply to petitioner-Society.

3. Section 21 (8) of Act, 1972 reads as under:

(8) Nothing in Clause (a) of sub-section (1) shall apply to a building let out to the

State Government or to a Local Authority or to a public sector corporation or to recognised educational" institution unless the Prescribed Authority is satisfied that the landlord is a person to whom Clause (ii) or Clause (iv) of the Explanation to sub-section (1) is applicable:

Provided that in the case of such a building the District Magistrate may, on the application of the landlord, enhance the monthly rent payable therefor to a sum equivalent to one-twelfth of ten per cent 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:

Provided further that a similar application for further enhancement may be made after the expiration of a period of five years from the date of the last order of enhancement.

4. Learned counsel for the petitioner could not dispute that terms "State Government", "Local Authority" and "Recognized Educational Institution" would not apply to petitioner's Co-operative Society. He however submits that petitioner would be governed by the term "Public Sector Corporation". This submission is also misconceived.

5. The term "Public Sector Corporation" has been defined in Section 3 (p) of Act. 1972 and reads as under:

(p) "Public sector corporation" means any corporation owned or controlled by the Government and includes any company as defined in Section 3 of the Companies Act, 1956, in which not less than fifty per cent of the paid up share capital is held by the Government.

6. Admittedly petitioner's Cooperative Society is not a Company registered under Companies Act, 1956. In order to qualify to be a Corporation owned or controlled by Government there is not even a whisper in the entire writ petition that petitioner's Cooperative Society satisfy the said requirement.

7. In para 3 of" objection filed by petitioner before R.C.E.O. (Annexure-3 to the writ petition) it has only said that petitioner is a Central Cooperative Store, deals with commercial transactions with consumers and is a commercial establishment. It nowhere even mention that it is controlled or owned by Government in any manner. On the contrary, learned counsel for the petitioner, during the course of argument, states that members of Co-operative Society are individuals. In these circumstances, the order impugned in the writ petition cannot be faulted and it cannot be said that petitioner-Co-operative Society satisfies the requirement of exempted categories mentioned in Section 21 (8) of Act, 1972. The writ petition lacks merit. It is accordingly dismissed with cost of Rs. 10,000.