
(2002) 04 AHC CK 0131
In the Allahabad High Court
Case No : C.M.W.P. No. 33651 of 1994

Chandra Pal Singh

APPELLANT

Vs

Rent Control and Eviction Officer/City Magistrate Bulandshahr
and Another

RESPONDENT

Date of Decision : 09-04-2002

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 16(9)
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Rules, 1972
— Rule 22

Citation : (2002) 2 AWC 1523

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : Rajesh Tandon and Anu Jaiswal, for the Appellant;

Final Decision : Allowed

Judgement

Anjani Kumar, J.—Petitioner has challenged the order dated 7.10.1994, whereby the Rent Control and Eviction Officer, Bulandshahr, has decided an application purporting to be an application u/s 16 (9) read with Rule 22 (f) of U. P. Act No. 13 of 1972 for fixing the standard rent of the building on the annual value of Rs. 2.58,000. Prior to the present application filed by the petitioner, he had filed an application also in the year 1993. The District Magistrate/Rent Control and Eviction Officer, Bulandshahr has already fixed the rent at Rs. 100 per month by order dated 31.5.1993. This order was subject-matter of challenge in the Writ Petition No. 39261 of 1993 which has been dismissed today by me on the statement made by the learned counsel for the petitioner that his client does not want to press this writ petition.

2. Now coming to facts of the present case which are hereunder :

"Admittedly, the tenancy of the petitioner was coming down since before 1978 and prior to that, rent of Rs. 150 was payable by the tenant-petitioner as agreed

rent contemplated u/s 4 of the Act No. 13 of 1972."

3. In this view of the matter, the present application for assessment of the presumptive rent u/s 16 (9) read with Rule 22 (f) of U. P. Act No. 13 of 1972, in my opinion is not maintainable. Provisions of Section 16 (9) are reproduced below :

"16. Allotment and release of vacant building.--(1) Subject to the provisions of the Act, the District Magistrate may by order :

(a) require the landlord to let any building which is or has fallen vacant or is about to fall vacant, or a " part of such building but not appurtenant land alone, to any person specified in the order (to be called an allotment order) ; or

(b) release the whole or any part of such building, or any land appurtenant thereto, in favour of the landlord (to be called a release order) :

Provided that in the case of a vacancy referred to in sub-section (4) of Section 12, the District Magistrate shall give an opportunity to the landlord or the tenant, as the case may be, of showing that the said section is not attracted to his case before making an order under clause (a).

(9) The District Magistrate shall, while making an order under Clause (a) of sub-section (1), also require the allottee to pay to the landlord an advance, equivalent to :

(a) where the building is situated in a hill municipality, one-half of the yearly presumptive rent ; and

Explanation.--In this subsection the expression "presumptive rent" means an amount of rent which the District Magistrate prima facie considers reasonable having regard to the provisions of Sub-sections (2) and (2A) of Section 9, provided that such amount shall not be less than the amount of rent which was payable by the last tenant, if any."

4. Perusal of quoted Sub-section (9) clearly demonstrates that it contemplates presumptive rent at the time when the District Magistrate passes the allotment order. Neither in the application out of which the present writ petition arises nor in the case set-up by the landlord this rent is required to be fixed by the District Magistrate u/s 16 (9) because there was no agreed rent or because there is a fresh allotment order. Neither there is aforesaid contingency in existence and the order of the Rent Control and Eviction Officer dated 7.10.1994, is wholly without jurisdiction and deserves to be quashed and is hereby quashed.

5. In the result, the writ petition succeeds and is allowed.

6. The order of the Rent Control and Eviction Officer dated 7.10.1994, is quashed. Since the order referred to above is quashed, therefore, the further proceedings in Case No. 18 of 1984 at whatever state is, also hereby quashed.

7. In view of what has been stated above, the writ petition is allowed.