

**(2004) 03 AHC CK 0144**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 6554 of 1983

Debi Saran and Anr.

APPELLANT

Vs

Rent Control and Eviction Officer, Fatehpur & Ors.

RESPONDENT

---

**Date of Decision :** 15-03-2004

**Acts Referred:**

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

**Citation :** (2004) 03 AHC CK 0144

**Hon'ble Judges :** S.U.Khan, J

**Final Decision :** Allowed

---

## **Judgement**

S.U. Khan, J.

1. This is landlord's writ petition. Release application of landlord under Section 16 of U.P. Act No. 13 of 1972 was rejected by R.C. and E.O., Fatehpur through order dated 551981. Learned Counsel for the petitioner has argued that thereafter on 1151983 the house in dispute was allotted to respondent No. 3 who at the relevant time was Sadar Munsarim in Civil Court, Fatehpur. Copy of order dated 1151983 has not been annexed. However, Annexure 5 is a letter by the then District Judge, Fatehpur addressed to one Harish Chandra (probably the then R.C and E.O.) informing him that till that date no accommodation had been allotted to R.N. Bhartiya who was Munsarim of Civil Court and as he had applied for allotment of house in dispute hence the same must be allotted to him. It is stated that on the basis of said letter the house was allotted to respondent No. 3, R.N. Bhartiya.

2. In my opinion it was not fair on the part of the District Judge to direct R.C. and E.O. to pass an order in a particular manner. While deciding release/allotment application the R.C. and E.O. performs quasijudicial function and he cannot be dictated by any one except the facts and material available on the file. In any case while rejecting the release application the need of the landlord had been examined in a meticulous manner. Bona fide need under Section 16 is to be

more liberally construed. As the District Judge had already directed R.C. and E.O. to allot the house in dispute to respondent No. 3 hence he had no option except to reject the release application of the landlord.

3. In my opinion the order dated 551981 is wholly illegal. Revision filed against the same by the landlord being Rent Revision No. 59 of 1981 was also wrongly dismissed by IIIrd Additional District Judge, Fatehpur by judgment and order dated 1351983. The meticulous examination of bona fide need of the landlord done by R. C. and E.O. like a rationing officer is not warranted even while hearing and deciding release application under Section 21 of U.P. Act No. 13 of 1972.

4. Accordingly, writ petition is allowed. Both the judgments are quashed. Release application of the landlord stands allowed.