

(1967) 01 AHC CK 0031

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 3931 of 1962

Ganesh Prasad and Another

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 20-01-1967

Acts Referred:

Uttar Pradesh (Temporary) Control of Rent and Eviction Act, 1947 — Section 7F

Citation : (1967) 37 AWR 631

Hon'ble Judges : R.S. Pathak, J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.S. Pathak, J.—The Petitioners are the tenants of a house in Sipri Bazar, Jhansi. Their landlord, the fourth Respondent, applied to the RC and EO for permission u/s 3(1) of the UP (Temp.) Control of Rent and Eviction Act to sue them for ejectment from the house.

The RC and EO declined to grant permission. Upon a revision application filed by the landlord, the Commissioner granted permission. The Petitioners then applied u/s 7-F to the State Government and the State Government by its order dated 5-8-1961 quashed the order of the Commissioner and refused permission. It appears that the landlord then applied to the State Government for a review of the order. Some further facts beyond those already on the record were set out in the review application but it was not indicated whether those facts were not in the knowledge of the landlord at the time when the proceeding was originally disposed of by the order of the State Government. The State Government, it seems, changed its mind and by its order dated 7-11-1962 revoked the earlier order and restored the order of the Commissioner granting permission. The Petitioner now applies for certiorari.

2. There is no dispute that the earlier order of the State Government was made in the exercise of the powers u/s 7-F and that the impugned order was made

later also in the purported exercise of those very powers. The Petitioners contend that the nature of the jurisdiction exercised by the State Government u/s 7-F being quasi-judicial, there was no power in the State Government to review an order made in the exercise of that jurisdiction when the statute had conferred no such power of review upon the State Government. There is substance in the contention. It is well settled that in the case of an authority exercising a judicial or quasi-judicial function there is no power in that authority to review an order made by it in the discharge of such function unless a power in that behalf has been expressly conferred upon it. The Supreme Court in *Laxman Purshottam Pimputkar Vs. State of Bombay and Others*, pointed out that when an authority exercised its revisional powers in a judicial or quasi-judicial capacity, finality attached to such order and in the absence of any express provision empowering it to review the order, a subsequent order made by that authority reviewing its earlier order was ultra vires and beyond its jurisdiction. That dictum was followed by this Court in *Property Agents v. Shamsheer Bahadur* 1965 ALJ 752, 757. It was held that when a RC and EO made a quasi judicial order he had no power or jurisdiction to review or cancel that order because no such power had been expressly conferred upon him by the statute. Learned Counsel for the landlord relies upon a decision of this Court in *Srimati Lachmana v. Deputy Director of Consolidation* 1966 RD 419 in support of the proposition that in every case it is open to an authority exercising a quasi-judicial function to review an order made by it. The decision in that case does not support the proposition advanced by learned Counsel. All that has been laid down there is that every court or tribunal has jurisdiction to correct an error committed by itself so that no party should suffer because of the fault of the court or the tribunal. The instant case is not one of those cases to which the legal maxim mentioned above applies. In the circumstances, the Petitioner are entitled to succeed.

3. The petition is allowed. A writ in the nature of certiorari shall issue quashing the order dated 7-11-1962 made by the State Government. The Petitioner are entitled to their costs.