
(1999) 05 AHC CK 0095

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 22366 of 1999

Guru Prasad Taneja

APPELLANT

Vs

VIII Addl. Distt.Judge, Meerut and Others

RESPONDENT

Date of Decision : 26-05-1999

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21(I)(a)

Citation : (1999) 05 AHC CK 0095

Hon'ble Judges : Yatindra Singh, J

Judgement

Yatindra Singh, J.—This is tenant's Writ Petition against the order dated 1351999 and 1981997 passed by Respondent Nos. 1 and 2 respectively in proceeding under Section 21 of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act 1972 (the Act for short).

2. Respondent No. 3 is landlord of the premises in dispute. He filed an application for release of the premises under Section 21 of the Act. Both the Courts below have held that the landlord is a serving Indian soldier as defined under the Indian Soldiers (Litigation) Act, 1925 and entitled for the benefit of Section 21(1), Explanation (iii) of the Act and he needs the building for residential purpose. The Courts below have also compared the hardship and have held that greater hardship will occasion to the landlord in case his application is dismissed. There is no illegality in this finding.

3. I have heard Sri Pankaj Mittal, counsel for the petitioner and Sri Rajesh Tandon, counsel for the caveatorrespondent. Counsel for the petitioner argued that there is no pleading that the landlord is Indian soldier within the meaning of the Indian Soldiers (Litigation) Act, 1925. In paragraph 25 of the release application it is mentioned that the applicant (landlord) is serving in Indian Army. He also filed a detailed affidavit to this effect. Both the Courts below have held that he is Major in the Indian Army. There is neither any evidence nor there is any allegation that the landlord is not a Major in the Indian Army, This point has

no merit. Counsel for the petitioner further argued that the petitioner was neither residing in public building nor he has been evicted from any public building and as such he is not entitled to the benefit of Section 21(1) Explanation (iii) of the Act. There is no necessity that the landlord should be residing in a public building or should have been evicted from a public building. That is a condition mentioned in Section 21(1A) of the Act or Chapter IVA of the Act. This is not a condition under Section 21(1) Explanation (iii) of the Act. This point has no merit. The writ petition has no merit. It is dismissed. However, the petitioner is granted nine months time to vacate the premises in dispute provided he files an undertaking in the form of an affidavit within two months from today before the Prescribed Authority concerned that he will peacefully hand over the possession of the premises in dispute and pay the rent for the period of his occupation.