

(1979) 07 AHC CK 0034
In the Allahabad High Court
Case No : Writ Petition No. 1838 of 1978

Hargovind Sethi

APPELLANT

Vs

State of Uttar Pradesh and other

RESPONDENT

Date of Decision : 30-07-1979

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 10, 8, 9

Citation : (1979) 07 AHC CK 0034

Hon'ble Judges : K.N.Goyal, J

Final Decision : Dismissed

Judgement

K.N. Goyal, J.

This is a tenant's writ petition arising out of proceedings for determination of standard rent under the U.P. Urban Building (Regulation of Letting, Rent and Eviction) Act, 1972. The petitioner came to occupy the premises in question under an allotment order in April 1973. Admittedly, there was no agreed rent between the parties. The petitioner himself made an application under Section 8 of the Act requesting the District Magistrate to fix the rent of the premises. The rent Control Officer fixed the rent at Rs.58.50 per month but on appeal (wrongly described as revision) under Section 10 the District Judge has fixed the rent at Rs.100/ per month aggrieved thereby, the petitioner has come to this Court under Article 226 of the Constitution.

The contention of the landlord was that the premises were not governed by the old Act as they were completed only in 1952. According to the petitioner, the premises were completed sometime between 1947 and 1950. This did not, however, make any difference to the case because, in any case, there was no "reasonable annual rent" for the premises within the meaning of the old Act. No rent had been fixed under Section 3A of the old Act. Looking to the definition of standard rent in Section 3 (k) of the new Act, it appears that subclauses (a) and

(b) of clause (i) of this definition are admittedly inapplicable. Either subclause (c) of clause (i) of clause (ii) applies. If the building was governed by the old Act, then the following subclause (c), will apply, "where there is neither agreed rent, nor reasonable rent the annual rent as determined under Section 9". If the building was not governed by the old Act, as contended by landlord, then the following subclause (ii) should apply, "the assessed letting value for the time being in force and in the absence of assessment, the rent determined under Section 9." "The petitioner himself invoked the jurisdiction of the Rent Control Officer for determination of standard rent by making an application under Section 8. He cannot thus complain that rent should not have been determined under Section 9.

The contention of the learned counsel for the petitioner is that the District Judge should first have decided whether the old Act was or was not applicable to the building. The only difference as a result of such a finding would have been whether rent should have been determined under Section 9 or the assessed letting value should itself have prevailed without any determination under Section 9. As the petitioner himself invited the determination of rent under Section 9, it hardly lies in his mouth to take this plea that rent should not have been determined under section 9 and that the assessed letting value itself should have been allowed to prevail.

At any rate, what we find is that the Municipal Board in 1972 proposed an assessment of Rs.700/ per annum, vide Annexure 3 to the petition. The landlord tiled objection and wanted enhancement. His objection was allowed by Municipal Board and the assessed letting value was increased to Rs.1440/per annum. Learned Counsel for the petitioner has contended that the landlord got the assessed letting value of the portion in his self occupation reduced, but got the assessed letting value of the two portions which were let out to different persons (including the petitioner) increased. We are, however not concerned with the part of the order accepting the landlord's objection so far as the portion under his self occupation was concerned. We are only concerned with the fact that the assessed letting value of both the portions let out was increased. That of the other tenanted portion was increased from Rs.700/ to 1500/. The assessment of letting value is entirely a matter between the owner and the Municipal Board and the tenant has no say in the matter. He Can only make an application under Section 8 (2) is case of underassessment. However that may be the learned District Judge has not treated the assessment as conclusive, and the landlord has submitted to that decision. He has assessed the rent as only Rs.1200/ per annum as against the assessed letting value of Rs.1440/. The petitioner has not been able to show that the standard rent, as determined by the District Judge was contrary to the provisions of Section 9 (2). The District Judge has considered the rent for the adjacent houses, the cost of construction, the constructed area of the house is over 1500 sq. ft. besides considerable open land. The mere fact that the earlier assessment and the rent paid originally by the tenant in the 1950 was considerably lower is of no avail. Indeed, the scheme of the new Act is, vide

Sections 9 (2) (a) and 16 (9) and (10), that, normally, for new tenants ten per cent per annum of the market value (at the time of commencement of each new tenancy) of the building (including its site) is reasonable. It is only in respect of old tenants that rents are virtually frozen and not in respect of successive new tenants.

I thus find no merit in this writ petition which is hereby dismissed. There will be no order as to costs.