
(2000) 01 AHC CK 0081

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 364 of 1986

Jai Bhagwan and Others

APPELLANT

Vs

Ist Addl. Distt.Judge, Meerut and Others

RESPONDENT

Date of Decision : 20-01-2000

Acts Referred:

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

Citation : (2000) 01 AHC CK 0081

Hon'ble Judges : S.N.Agarwal, J

Final Decision : Allowed

Judgement

Sudhir Narain, J.—This writ petition is directed against the order of the Appellate Authority dated November 29, 1985, whereby the appeal was allowed and the release application filed by the petitioners was rejected.

2. The facts, in brief, are that the petitioner filed application for release of the disputed accommodation under Sections 21(1)(a) and 21(1)(b) of U.P. Act No. 13 of 1972, on the ground that the disputed accommodation is in a dilapidated condition and after its demolition and reconstruction he requires the same for residential purpose. The application was contested by the tenantrespondent. The Prescribed Authority found the need of the petitioner bona fide and genuine. It was further found that the building was in dilapidated condition and required demolition and reconstruction. The tenantrespondents filed appeal against the said order. The Appellate Authority has allowed the appeal and set aside the order of the Prescribed Authority. The application filed by the petitioner has been rejected by the impugned order dated November 29, 1985.

3. The Appellate Authority upheld the finding of the Prescribed Authority on the question of bona fide need. It observed asunder:

?So far as the question of bona fide need is concerned, it cannot be said that the finding of the Prescribed Authority is erroneous. Undisputedly, there are 7 rooms in the accommodation of the landlords and there has been an increase in the

members of their family. It is but material that their children who have come up of age would be requiring additional accommodation for their own occupation and studies etc. I am of the view that need of the landlords was rightly found to be bona fide and genuine by the prescribed authority and the contention of the appellant in this respect is not sustainable.?

4. It, however, on comparison of hardship, found that if the petitioner is evicted, he would suffer a grater hardship. The Appellate Authority further found that the landlord should have made necessary repairs in the building. He, having failed to do so, cannot urge that the disputed accommodation is in a dilapidated condition.

5. The law does not require that an application under Section 21(I)(a) of the Act cannot be allowed unless the tenant has some alternative accommodation. In *Bega Begum and others v. Abdul Ahad Khan and others*, it has been held that in every case when an application is allowed, the tenant has to be evicted but the mere fact that the tenant has no alternative accommodation shall not be ground to reject the application. The Appellate Authority, without considering this aspect, has rejected the application simply on the grounds that the tenants would suffer greater hardship in case they are evicted. Secondly, the Appellate Authority should have examined the entire evidence on record to find out as to whether the building in question is in a dilapidated condition.

6. In view of the above the writ petition is allowed and the impugned order dated 29111985 is hereby quashed. Respondent No. 1 is directed to decide the appeal afresh within two months from the date of production of a certified copy of his order before him.

Considering the facts and circumstances of the case the parties shall bear their own costs. Petition allowed.