
(2000) 03 AHC CK 0055

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 14336 of 2000

Janendra Kumar Jindal

APPELLANT

Vs

Ist Additional District Judge and Others

RESPONDENT

Date of Decision : 29-03-2000

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21(1)(a)

Citation : (2000) 03 AHC CK 0055

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

Final Decision : Dismissed

Judgement

Sudhir Narain, J.—This writ petition is directed against the order of prescribed authority dated 8121994 allowing the release application and the order of the appellate authority dismissing the appeal against the aforesaid order.

2. The landlordrespondent filed application for release of the disputed shop with the allegation that he is unemployed and wants to carry on business in the disputed shop. It is alleged that Ratan Lal is his grandfather and adopted him and he succeeded Ratan Lal. It was further stated that Ratan Lal executed a Will on 1381994 and under this Will the shop in dispute was bequeathed in his favour.

3. The petitioner contested the application and denied that there was no adoption. It was further stated that the mother of the landlord owns three shops which are vacant and available to him to carry on business.

4. The prescribed authority recorded the finding that Ratan Lal had executed a Will and the landlordrespondent became owner of the property. He needs the disputed shop and on comparative hardship it was found that in case the application is rejected he would suffer greater hardship. The application was allowed and the appeal against the said order was dismissed by the appellate authority. This order has been challenged in this writ petition.

5. I have heard Sri Ravi Kant, learned Counsel for the petitioner and Sri Rajesh

Tandon, learned Counsel for the respondents.

6. Learned Counsel for the petitioner contended that Rajbala is natural mother of the landlordRespondent No. 3 and she is owner of three other shops which are vacant and available to the landlordrespondent No. 3 wherein he can carry on his business.

7. This argument was also examined by the appellate authority. There is one shop above the disputed shop which was found in the tenancy by one Kastoorilal. The said shop is not available for carrying on business.

8. The second shop is situate to the west to the disputed shop which was owned by Smt. Rajbala natural mother of the petitioner. In the said shop husband of Smt, Rajbala namely, Laxmi Narain found carrying on business and are not found vacant and available to the respondent.

9. The dispute is in regard to the third shop which is alleged to be above to the shop in which Laxmi Narain, husband of Smt. Rajbala is carrying on business. The contention of Respondent No. 3 was that there is only one room and the stair case is from the back side and it is not suitable for carrying on business. The contention of the petitioner before the prescribed authority was that it was let out to a tenant. The prescribed authority found that it was not let out to a tenant but on consideration of material evidence on record it was found that it was not fit and suitable for the respondent to carry on business. This shop is statute above the shop in which Laxmi Narain is carrying on business. There is only one room on first floor and the stair case is from the back side. This finding is based on assessment of material evidence on record. I do not find any reason to interfere in the finding recorded by the authorities under Article 226 of the Constitution. The writ petition is accordingly, dismissed, In the end learned Counsel for the petitioner praye that some time be granted to vacated the disputed shop. Considering the facts and circumstances of the case the petitioner is granted ten month time to vacate the disputed shop provided he gives written undertaking on affidavit before the prescribed authority that he would vacated the disputed shop within the time granted by this Court and will hand over its peaceful possession to the landlord respondent.