

(2009) 04 AHC CK 0572

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 50797 of 2006

Kishan Chandra Jain

APPELLANT

Vs

Rent Control and Eviction Officer/City Magistrate, Kanpur
Nagar

RESPONDENT

Date of Decision : 24-04-2009

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 14

Citation : (2009) 04 AHC CK 0572

Hon'ble Judges : Prakash Krishna, J

Final Decision : Allowed

Judgement

Prakash Krishna, J.—The dispute relates to the property no.25/16 (old), 25/19 (new), Karachi Khana, Canal Road, Kanpur Nagar, which is in occupation of the petitioner. Whether the said accommodation is "vacant" within the meaning of section 12 read with section 16 of U.P. Act No.13 of 1972 and open for allotment and release is the question mooted herein.

2. The petitioner claims that the said property is neither vacant, actual or deemed nor it is open for allotment as his grandfather Chandan Lal was the tenant who came in its occupation in the year 1949 on behalf of M/s. Bisheshwar Nath Mool Chand. M/s. Bisheshwar Nath Mool Chand was the tenant in chief of the said house and the said house originally belonged to Juggi Lal Kamlapat who had given it to M/s. Bisheshwar Nath Mool Chand.

3. The respondent no.3 Jai Kishore Tiwari, filed an application for allotment of the said accommodation on the pleas inter alia that the possession of the petitioner is unauthorised one being subtenant of M/s. Bisheshwar Nath Mool Chand without written consent of the landlord namely Juggi Lal Kamlapat to whom the property originally belonged.

4. The said property was purchased by the respondent no.2, Purushottam Das Jaiswal by means of the sale deed dated 3rd of February, 2001 from M/s.

Bisheshwar Nath Mool Chand. M/s. Bisheshwar Nath Mool Chand purchased the said property from erstwhile owners by means of six sale deeds all dated 1st of July, 1999. In the sale deed standing in favour of the respondent no.2, the succession of the property in question has been mentioned and it is not necessary to deal them. Suffice it to say that the respondent no.2 purchased the property in dispute from M/s. Bisheshwar Nath Mool Chand who were the tenants and they had purchased the lessor's rights from the erstwhile owner as detailed in the sale deed and had acquired full ownership in respect thereof.

5. The respondent no.2 who became the owner of the property in dispute also submitted that the property in dispute is vacant in the eyes of law in as much as the petitioner is in occupation of the disputed premises as sub tenant without written consent or permission of the landlord or the District Magistrate.

6. A report on the allotment application filed by the respondent no.3, from the Rent Control Inspector was called for by the Rent Control and Eviction Officer and the proceedings for allotment/release was set on motion. It was registered as case No.7/04/29/06.

7. The parties led evidence in support of their respective cases. The petitioner filed documents such as municipal extracts of the years 1927 1932, 1932 1938, 1938 1943, 1943 1949, 1953 1999. Name of Chandan Lal, grandfather of the petitioner, under occupation column is recorded beginning from 1943 1949. Name of M/s. Bisheshwar Nath Mool Chand as agent of the owner is also recorded in these documents. The petitioner also filed certain rent receipts etc. to show that he is in occupation of the disputed accommodation since the year 1949. The rent receipts issued from M/s. Bisheshwar Nath Mool Chand of the year 1985 etc. were also filed.

8. The Rent Control and Eviction Officer by the impugned order dated 4th of September, 2006 passed in case No.7/04/29/06 : Jai Kishore Tiwari Vs. Kishan Chand Jain and others held that the ground floor of the house consisting four rooms bearing no.25/14 (old), 25/16 (new) presently 25/19 Karachi Khana, canal road in occupation of the petitioner, is deemed vacant. Challenging the legality and propriety of the said order, the present writ petition has been filed.

9. Heard learned counsel for the petitioner and Shri Ravi Kant, learned senior counsel along with Shri M.K. Gupta for the contesting respondent no.2. The main point mooted in the present writ petition is whether the petitioner, as claimed by him, is entitled for regularization of his occupation as provided under section 14 of the U.P. Act No.13 of 1972 or not. For the sake of convenience section 14 as amended, is reproduced below:

"14. Regularization of occupation of existing tenants.

Notwithstanding anything contained in this Act or any other law for the time being in force, any licensee (within the meaning of Section 2A) or a tenant in occupation of a building with the consent of the landlord immediately before the

commencement of the Uttar Pradesh Urban Building (Regulation of Letting, Rent and Eviction) (Amendment) Act, 1976, not being a person against whom any suit or proceeding for eviction is pending before any court or authority on the date of such commencement shall be deemed to be an authorised licensee or tenant of such building."

10. On a plain reading of the aforesaid section, in order to claim regularization of occupation of existing tenant, the following three ingredients are required to be fulfilled, as rightly submitted by the learned senior counsel for the respondents:

(1) The person claiming regularization should be in occupation on the cut off date i.e. 5th of July, 1976 as tenant. The date earlier was 15th of July, 1972 when the Act commenced;

(2) Such occupation should be with the consent of landlord; and

(3) No suit or proceeding for eviction was pending before any court or authority on the cut off date i.e. 5th of July, 1976.

11. All these conditions should be fulfilled cumulatively. So far as third requirement is concerned, the learned senior counsel very fairly accepts that no suit or proceeding for eviction of the petitioner was pending against him on the relevant date. The question which falls for determination in the present case is whether the other two conditions namely occupation of the petitioner on the relevant date as tenant and consent of the landlord are fulfilled or not.

12. Taking the first point first, it may be noted that from the very inception the case of the petitioner is that he is in occupation of the disputed accommodation since 1948 through his grandfather. In this connection, evidence was led by him in the form of various municipal extracts which are in nature of public documents and the rent receipts issued by M/s. Bisheshwar Nath Mool Chand. It may also be noticed here that it is almost an admitted case of the parties that M/s. Bisheshwar Nath Mool Chand was the tenant and it permitted Chandan Lal, the grandfather of the petitioner (the predecessor in interest) to occupy the disputed accommodation, as tenant. The status of the petitioner/predecessor in interest qua the original landlord is that of sub tenant. In the impugned order the authority concerned has not recorded any finding with regard to the case of the petitioner that he has been in occupation of the disputed accommodation since 1948 through his grandfather.

13. The learned counsel for the petitioner at this stage submits that since it was a relevant aspect of the case, which has been ignored and has not been considered, the matter should go back to the authority concerned for recording a proper finding. On the other hand, the learned senior counsel for the respondents submits that, be that as it may, this Court on the basis of the material available on record should examine the matter itself instead of passing a remand order. Taking into consideration that there is voluminous evidence in the form of public documents, their veracity and authenticity being not in dispute, it

was considered fit and proper to examine the said question here.

14. Along with the writ petition, Panchsalas commencing from the period of 1927 to 1953 and 1953 to 1999 have been enclosed collectively marked as Annexure3. Corresponding averments have been made in paragraph 5 of the writ petition. It has been stated that petitioner's grandfather, Chandan Lal, was the tenant of the accommodation in dispute since 1948. A Firm in the name of M/s. Chandan Lal Gopi Nath was being run from the disputed accommodation. A timber Ara machine in the premises was installed. He had 12 horse power connection in his name. In paragraph 6 it has been stated that petitioner's grandfather did pay rent to M/s. Bisheshwar Nath Mool Chand and M/s. Bisheshwar Nath Mool Chand who was the chief tenant of the house which originally belonged to Juggi Lal Kamlapat who gifted it to Smt. Rekha wife of Sukhdev and Ram Gopal Timtimia.

15. These averments have not been denied specifically by the respondent anywhere including in the counter affidavit. The only plea raised in the counter affidavit in reply is that in the assessment register for the assessment year 1958-63, Chandan Lal Gopi Nath was recorded as sub tenant at serial no.2. In the column of profession, it was recorded that "KARKHANA LAKRI" and thereafter letter "A" was mentioned therein, for another accommodation letter "B" was mentioned and thereafter, it was mentioned "A+B subtenant".

16. The contesting respondent has also annexed the assessment register for the year 1958-1963 along with the counter affidavit. In para 7 of the counter affidavit it has been stated that in the like manner in the assessment register for the year 1963-1968 Chandan Lal Gopi Nath was entered at serial no.2 in relation to an accommodation comprising of four rooms and a big tin shed and it was mentioned that he is a "Sikmi"(which means sub tenant). Copy of the said extract of the assessment register has been enclosed along with the counter affidavit. Further, in the said para it has been stated that "on the admitted case of the petitioner his status can only be that of a sub tenant, without consent in writing of the landlord and without permission of the District Magistrate within the meaning of Section 7 (3) of the U.P. Act No.3 of 1947. While M/s. Bisheshwar Nath Mool Chand was tenant in chief and Juggi Lal Kamlapat earlier and later on Smt. Rekha wife of Sukhdev, and Ram Gopal Timtimiya became owner of the building."

17. On a conjoint reading of paragraphs 5 and 6 of the writ petition and their reply in paragraphs 6 and 7 of the counter affidavit, the common case of the parties is that Chandan Lal Gopi Nath was there in the occupation of the premises in question comprising of four rooms and a big tin shed since the period beginning year 1958 at least. The only point which has been raised in the said counter affidavit is that Chandan Lal was recorded as "Sikmi" in the assessment list. Even if Chandan Lal's possession is recorded as "Sikami" in the assessment list, at least it shows that Chandan Lal was there in occupation of the premises in question since 1958. It is not disputed by the respondent no.2 even in the present counter affidavit. It is established that Chandan Lal, the grandfather of

the petitioner was in occupation of the disputed accommodation as tenant of M/s. Bisheshwar Nath Mool Chand, the chief tenant and Juggi Lal Kamlapat earlier and later on Smt. Rekha wife of Sukhdev, and Ram Gopal Timtimiya became the owners of the building. It is, thus, established that Chandan Lal, the grandfather of the petitioner came into occupation of the disputed accommodation in the year 1958, at least. The said entry in the municipal record continued and remained uninterrupted and unbroken since year 1958 to 1999. The above position was not disputed by the learned senior counsel appearing on behalf of the contesting respondent. Thus, it is established fact that the petitioner was in occupation as tenant of the property in dispute on the date of commencement of the Act i.e. 15th July, 1972 and also on 5.7.1976 the date when section 14, as stands amended today, was amended.

18. At this stage, the learned senior counsel for the contesting respondent urged that it is an admitted case of the petitioner that M/s. Bisheshwar Nath Mool Chand used to issue rent receipts and the rent receipts have not been filed and therefore, a presumption of tenancy in favour of the petitioner cannot be drawn merely on the basis of the entry in the municipal records. It is difficult to agree with him. From the unchallenged municipal records spreading over almost five decades, it is logical to draw conclusion that Chandan Lal came into occupation of the property in dispute at least in the year 1958 and he continued to be in the occupation of the same till his life time and after his death his son and after the death of his son, the petitioner remained in occupation of the disputed accommodation. Non filing of the rent receipts is not fatal to the case when there are other clinching and uncontroverted material on record. It was neither pleaded nor proved that there was any breach in the continuous occupation of the petitioner.

19. The Rent Control and Eviction Officer was under legal obligation to have examined the documentary evidence and it has failed to discharge its duty in not doing so. Non consideration of relevant material vitiates the impugned order.

20. Taking the second point regarding the consent of landlord as envisaged under section 14 of the Act, it was vehemently argued by the learned senior counsel that there is no material on record to show that the landlord i.e. Juggi Lal Kamlapat or Sukhdev or Smt. Rekha or Ram Gopal etc. who succeeded the property in question one after the other, had consented for subletting by M/s. Bisheshwar Nath Mool Chand who was the chief tenant of the property in dispute to Chandan Lal, the grandfather of the petitioner. Elaborating the argument, the learned senior counsel submits that under the U.P. Act No.3 of 1947 i.e. the old Rent Control Act which was holding field before the commencement of the present U.P. Act No.13 of 1972, the sub tenancy without the consent of landlord was prohibited. A tenant who has parted with the possession of the tenanted accommodation in favour of a person, the possession of such person is unauthorised one except in a case where the said parting of the possession is with the consent of the landlord. The consent of landlord cannot be presumed

even if the landlord has knowledge of such parting of the possession, submits the learned senior counsel. The submission is that there should be some positive material on record to show that the landlord had given his consent. Strong reliance was placed upon a full bench decision of this Court in *Smt. Keshar Bai Vs. District Judge, Mathura*, 1980 ARC 223 (FB) : 1979 (5) ALR 199 (Sum.) (para 2 in particular). In this case, the Court noticed the earlier legislation holding the field. In para 13 of the report it has been observed that prior to the Amending Act, 1952, section 7 (2) spoke of letting as well as subletting. The District Magistrate had power to pass an order requiring the tenant in chief to sublet, in the same manner as it would require a landlord to let or not to let a tenant. By Amending Act of 1952, a new provision as sub section (3) was added as a result whereof subletting was placed in a different category. It provided that subletting could be done by a tenant only with the permission of landlord and of the District Magistrate. It follows that up to the year 1952, permission of the landlord was not required and the requirement of permission of the landlord came into force for the first time thereafter. In para 30 of the report it has noticed a decision of this Court given in *Smt. Rammani Devi Vs. Rent Control and Eviction Officer*, 1976 AWC 1 (FB), wherein it was held that even if a premises was sublet contrary to the provisions of section 7 (3), the District Magistrate would not be entitled to allot anybody else. It was with a view to plug this lacuna when section 12 of the U.P. Act No.13 of 1972 was enacted. Thereafter, it has been held that even if subletting took place before the commencement of the Act, to such subletting section 12 (1) (b) will be attracted which is retrospective in operation.

21. The submission of the learned senior counsel is that there being no consent by the landlord, the subletting being contrary to the provisions of the old Rent Control Act, it is legitimate to draw an inference that consent as required under section 14, is lacking in the present case.

22. Section 14 of the Act begins with an nonobstanate clause. Reference can be made to *Rajendra Nath Tiwari and another Vs. IIIrd Additional District Judge, Allahabad*, 1981 ARC 271. It has been held that section 14 of the Act begins with a nonobstante clause. It is obvious that section 14 expressly was enacted as an exception or as an overriding provision intended to overcome effect or application of other provisions including sections 11, 12 and 13 of the Act. Section 14 of the Act, therefore, overrides section 12 (1) (b) of the Act in view of nonobstante clause used therein.

23. In the case on hand, the question of consent of the owner of the property in dispute be that of Sukhdev or his widow Rekha or his son Ram Gopal Timtimiya can be easily drawn from the conduct of the parties. The consent does not necessarily mean that it should be express consent or in writing. The consent may be express or implied, depending upon the facts and circumstances of each case. There is no dearth of cases on the point that the consent contemplated under section 14 of the Act includes implied consent also. Reference was made to *Smt. Kesharbai and another Vs. District Judge, Mathura*, 1980 ARC 452 = 1979

(5) ALR 199 (Sum.) (paragraphs 20 and 21). The said paragraphs of the report are extracted below:

"20. It may be noted here that the benefit of section 14 had been claimed by Ram Dayal in his individual and personal capacity. It was correct that the business in the two shops was being done in the names of Ram Dayal Luxman Prasad and Devendra Prasad Ram Dayal but the benefit could not be given to the firms. A firm is not a juristic person. It is only a convenient name to call a group of persons by a common name. The firm, therefore, was neither entitled to the benefit of section 14 nor was any benefit claimed on its behalf. The benefit had been claimed by Ram Dayal. Rent Control and Eviction Officer rejected the prayer of regularization of occupation by holding that since there is no evidence to show that the firm had been in occupation of the shops in dispute with the consent of the landlords on 18.7.72, the date of commencement of U.P. Act no.13 of 1972, or on 5th July, 1976, the date of commencement of amending Act of 1976, so the firm M/s Ram Dayal Luxman Prasad would not be protected under section 14. To the same effect was the conclusion arrived at by the learned District Judge.

21. Section 14 of U.P. Act no.13 of 1972 uses the expression "consent". The expression "consent" means voluntary agreement by a person in the possession and exercise of sufficient mentality to make an intelligent choice to do something proposed by other (See Black's Dictionary). Consent is an act of active acquiescence, an active circumstance of concurrence. Some times consent is synonymous merely with waiver. It can be express or implied. An express consent is that which is declaration given, either vivo voce or in writing. It is positive, direct and unequivocal consent. Implied consent, to the contrary, is that which is manifested by signs, acts or facts, or by in action or by licence, which raised a presumption that the consent has been given."

24. The same view has been reiterated in Prakash Chand Jain Jain Vs. Jai Narain, Ravindra Kumar and others 1984 (2) ARC 24 (para 6). Para 6 of the said report is extracted below:

6. "Learned counsel laid stress then upon contending that the consent of the landlord in favour of respondent no.1 is not express and therefore the respondent no.1 cannot avail of the benefit under Section 14 of the Act. The consent envisaged under Section 14 may not in all cases be express. It is equally good and effective where it can be inferred by necessary implication. The averments contained in the present case would show that right up to about May, 1975 commencing from 1967 the rent continued to be paid to the landlord by the newly inducted partners though this was done in the name of the old firm. The landlord, it is also stated, resides in the upper portion of the same building at Kanpur. It is difficult to agree that despite this lapse of time and the rent being paid by persons who were not the tenants initially, the landlord would remain all through in the dark and be not aware as to the change brought about in the constitution of the firm or as to the persons who were conducting the business thereof. Circumstances speak for themselves and they safely lead to the

conclusion that the landlord consented to the newly admitted partners being treated as tenants even though the receipts continued to be issued in the name of the old firm."

25. Then, it was urged by the contesting respondents that since exact particulars about the commencement of the tenancy has not been given by the petitioner, according to the petitioner, sub tenancy commenced in the year, 1948 while the documents show that it commenced in the year 1958, the theory of consent is liable to be rejected. Reliance was placed on the following cases:

1. Sheetal Das Vs. Surya Kant Misra: 1982 (2) ARC 25 (9), wherein it has been held that plea of section 14 cannot be raised for the first time in appeal.
2. Rajendra Kumar Vs. Kiraya Niyantak Evam Nishkashan Adhikari and others: 1996 (1) ARC 326 (4), no material was produced by the tenant to show that he is occupation since 1970.
3. Usman Gani Khan Vs. Rent Control and Eviction Officer and others :1999 (2) ARC 192 (7,8, 14). The benefit of section 14 is not automatic. It is possible that in some cases consent may be express whereas in others implied.
4. Girja Shankar and another and Anand Kumar Agnihotri and another Vs. Hirday Ranjan Chakraborty and another: 1988(2) ARC 501 (911), is not a case under section 14 of the ?Act.
5. Mohd. Saleem Vs. Mirza Naseem Beg and others: 1983 (2) ARC 87 (7,8); is totally besides the point.
6. Bimal Kishore Paliwal Vs. IVth Additional District and Sessions Judge, Muzaffarnagar: 2005 (59) ALR 1 = 2005(2) ARC 672 (15). On the facts of the case it was found that ingredients of Section 14 are not fulfilled.

26. It is not necessary to discuss them in detail for the reason that it is a proven fact that the petitioner came into the possession of the property in question at least in the year 1958 through his grandfather and his possession continued even after the cut off date. There is no evidence to the contrary to show that the possession of the petitioner was in any manner interrupted or disturbed or disrupted at any point of time till date. The open and peaceful continuity of the possession since year 1958 is established beyond any doubt. It is difficult to assume specially when the name of petitioner or his predecessor in interest finds place in the municipal records for the last five decades, that the owner of the property was not aware about it nor he had not consented the possession of the petitioner. In such circumstance, inference of implied consent is the only conclusion which can possibly be drawn. The sale deed which is the document of title of the contesting respondent also throws light in this regard. Significantly, in the sale deed it is mentioned as a fact that the petitioner along with three other persons are there as tenants. The relevant portion from the sale deed is extracted below:

"That the said property hereby conveyed is under the tenancy of four tenants namely Sri Krishna Chandra, Sri Om Narain, Sri Sheo Karan and Sri Mangali Prasad and it will be the responsibility of the Vendee to get vacated the various portions occupied by the aforesaid tenants at his own cost and the Vendor shall not be liable for the same."

(Emphasis supplied)

27. The possession of the petitioner has been acknowledged as tenant of the disputed property, in the sale deed. It is indicative of the fact that the petitioner has been treated throughout by the owner of the property as tenant. The fact that there is no overt action on the part of the owner not to treat the petitioner as a tenant assumes importance.

28. Attention of the Court was drawn, at this stage, towards a litigation in between the owners of the property in question and Nagar Mahapalika with regard to the annual letting value of the property in question. In that connection, it was stated by them that they are not receiving any rent from the subtenant and therefore, the said fact should not be taken into consideration while fixing the annual letting value of the property. Reliance was placed upon the following portion of the judgment of the High Court in that matter being writ petition No. 638 (Tax) of 1984 dated 21.5.1991:

"In the present case, it cannot be said that the rent realized from the sub tenant by the tenant was with the permission of the landlord and the same was in accordance with law."

29. The said observation made in the judgment should not be torn out and read out of the context. There whether sub tenant is with or without consent of the landlord, was not in issue. The issue was with regard to the question of determination of only letting value of the property in question. The local authority wanted to assess the property taking into consideration the rent paid by the sub tenant to the tenant. In that connection, on interpretation of the provisions of relevant Statutes involved therein, the above observation was made. The said observation is not at all relevant so far the present controversy is concerned. Even otherwise also, since the petitioner was not a party in those proceedings, it cannot be read against him.

30. The upshot of the above discussion is that there was an implied consent if not an express consent of the owner as well as of the chief tenant namely M/s. Bisheshwar Nath Mool Chand with regard to the subletting under consideration.

31. There is another aspect of the case yet. The contesting respondent came in the picture for the first time on the strength of sale deed dated 3rd February, 2001 in his favour. He was not in the arena earlier. He has not filed anything to show that the subletting which took place in the year 1958 was without consent of the owner or the landlord. The application giving rise to the present writ petition was filed by the respondent no.3. The contesting respondent landlord did

not move the machinery for declaration of vacancy. In the sale deed of the contesting respondent it is mentioned that the petitioner is the tenant. The contesting respondent is, therefore, estopped from saying anything contrary to his deed of title. The principle of estoppel by document will be attracted against him. He cannot take a stand which is different and just opposite to what has been mentioned in his document of title.

32. Viewed as above, it is fully established that there was an implied consent on the part of the owner/landlord with regard to the possession of the petitioner on the relevant date. Thus, the second ingredient for invoking section 14 of the Act stands fulfilled.

33. In the last, the argument of the learned counsel for the petitioner is that cause of action, if any, accrued to the predecessor in interest of the contesting respondent on the date of commencement of the Act i.e. 15th July, 1972 and at this distance of time initiation of proceedings after about 34 years, is wholly unjustified. In reply, the learned senior counsel, contends that since sub tenancy is void and a thing which is void is void forever and it can be set up at any stage and at any point of time.

34. The said argument has got some substance and even if no period of limitation under the Act is prescribed, still it is expected that a person should commence proceedings if so desired within a reasonable period of time. Having failed to take appropriate steps within reasonable period of time, the initiation of proceedings after more than three decades, cannot be approved. There are catena of decisions by this Court wherein it has been held that in such matters reasonable time for initiating proceedings is 12 years from the date of accrual of the cause of action. On this ground also, the proceedings are liable to be quashed.

35. It has been held in Abdul Khaliq Vs. Additional District Magistrate, Varanasi: 2007 (2) ARC 629 = 2007 (66) ALR 185 that with respect to the proceedings under section 12 of the Act, a period of 12 years should be taken as reasonable time for initiating the proceedings under the Statute from the date of cause of action arises. In this case, the court has relied upon a decision of the Apex Court in the case of Mansha Ram Vs. S.P. Pathak and others, AIR 1983 SC 1239. In Anil Kumar Dixit Vs. Smt. Maya Tripathi and another, 2006 (62) ALR 383 = 2006 (1) ARC 377, the above view has been reiterated.

36. The aforesaid pronouncements have been constantly followed by this Court as is apparent from Sarla Devi Vs. Shailesh Kumar and others 2009 (74) ALR 27 (HC) = 2008 (3) ARC 632 and Jamuna Devi Vs. District Judge, Kanpur Nagar and others 2009(1) ARC 266.

37. Before saying omega to the case, it is appropriate to say a few words with regard to the manner in which the impugned order has been passed. It is shocking to note that there is absolutely no discussion in the impugned order with regard to the various pleas raised by the respective parties. The impugned

order recites the pleadings of the parties, contents of the affidavits and the case laws referred by the counsel. But the facts of the case have not been analysed nor any finding has been recorded on the relevant issues. The authority concerned has jumped to the conclusion in the last paragraph of the order that the petitioner has filed rent receipts of the year 1982 and had not objected about the execution of the sale deed in favour of the contesting respondent. Therefore, there is a vacancy. The said approach of the authority concerned to say the least to the matter is wholly unsatisfactory. How a tenant or sub tenant can object to a sale deed executed by his lessor. The order does not contain any reason which led to the passing of the impugned order. The impugned order, looking to the fact of the case as well as law, is no order in the eyes of law.

In view of the above discussion, it is held that the occupation of the petitioner as tenant stood regularized on the commencement of amended section 14 of the Act. In this view of the matter, there is no vacancy actual or deemed and the accommodation in dispute is not open for allotment or release. The impugned order dated 26.4.1984 is hereby set aside. The writ petition succeeds and is allowed with cost of Rs.10,000/ (Rupees Ten Thousand only).