

(2012) 11 AHC CK 0079
In the Allahabad High Court
Case No : Writ-A No. 13354 of 2009

Kunwar Deep Singh

APPELLANT

Vs

Ghanshyam Shukla

RESPONDENT

Date of Decision : 01-11-2012

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 12, 16

Citation : (2012) 11 AHC CK 0079

Hon'ble Judges : Sudhir Agarwal, J

Final Decision : Dismissed

Judgement

Sudhir Agarwal, J.—Heard learned counsel for the parties and perused the record.

2. Both these writ petitions have arisen out of the interconnected proceedings inasmuch as the Rent Control and Eviction Officer, Kanpur Nagar (hereinafter referred to as the "RCEO") vide order dated 21.04.2006 declared vacancy in the premises in question holding occupation of premises in question by petitioner, unauthorized, and thereafter on the application of landlordrespondent has passed order dated 03.12.2007 releasing accommodation in favour of landlord. The release order has been confirmed by Revisional Court by dismissing Revision No. 13 of 2008.

3. It further appears that against the release order, petitioner filed Rent Revision No. 13 of 2008 wherein his application for interim relief was rejected by Revisional Court vide order dated 28.05.2008, whereagainst Writ Petition No. 27467 of 2008 is filed and the present Writ Petition No. 13354 of 2009 has been filed against the proceedings arising out of release order, whereagainst also his Rent Revision No. 13 of 2008 has been dismissed by court below.

4. It is not disputed by learned counsel for the petitioner that initially one Balbir Singh was tenant in the shop in question and petitioner got possession from the erstwhile tenant, Balbir Singh. Relying on a letter of allotment the petitioner, Kunwar Deep Singh got possession of accommodation in question from erstwhile

tenant, Balbir Singh. However it is not disputed that aforesaid letter of allotment was cancelled by competent authority on 16.03.2002 and that order has become final.

5. In the above circumstances, since possession of petitioner on accommodation in question was found wholly unauthorized though the accommodation is within the ambit of Act, 1972 and no person could have got possession of an accommodation on rent without any letter of allotment in view of clear bar in the Act, the possession of petitioner was admittedly unauthorized and illegal. It is in these circumstances, the RCEO declared vacancy in the accommodation in question holding petitioner's possession unauthorized vide order dated 21.04.2006.

6. Before this Court also learned counsel for the petitioner could not show any letter of allotment existing and operating in his favour validating his possession on the accommodation in question.

7. In these circumstances, since petitioner's possession of the accommodation in question is wholly unauthorized and illegal, in my view the RCEO has rightly declared vacancy. That being so, an unauthorized occupant has no legal or valid right to object release application of landlord. It has repeatedly been held time and again that occupation of a premise in contravention of provisions of Act, 1972 is illegal and unauthorised. I need not burden this judgement with catena of such authorities but refer only recent one, namely, the Apex Court's decision in Nutan Kumar and others Vs. IInd Additional District Judge and others, 2002(2) ARC 645. When a premises is occupied by a person unauthorisedly, he is a deemed unauthorised occupant. The statute thus contemplate that the property shall be deemed vacant.

8. Even otherwise, learned counsel for the petitioner could not demonstrate any illegality in the release order passed by court below which has been confirmed in revision by Revisional Court.

9. No interference, therefore, is called for. Both the writ petitions are dismissed accordingly. Interim order, if any, stands vacated.

Petitions dismissed.