
(2001) 08 AHC CK 0070
In the Allahabad High Court

Kusumlata Jain

APPELLANT

Vs

Ist Addl. District Judge, Jhansi & Anr.

RESPONDENT

Date of Decision : 10-08-2001

Acts Referred:

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

Citation : (2001) 08 AHC CK 0070

Hon'ble Judges : Yatindra Singh, J

Final Decision : Allowed

Judgement

Yatindra Singh, J.—The petitioner is landlord of the premises in dispute. He filed an application for release of the premises in dispute under U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (the Act). Respondent No. 2 (the contesting respondent) is tenant of the same. Dying pendency of this application the petitioner also offered two alternative accommodations to the contesting respondent. After considering the facts and circumstances of the case the application of the petitioner was allowed on 28/4/1980. The contesting respondent filed an appeal which was allowed on 13/11/1987. Hence the present writ petition.

2. I have heard Sri B.N. Agrawal Counsel for the petitioner and the Sri A.N. Bhargava Counsel for the contesting respondent. The petitioner has offered alternative accommodation which was earlier occupied by two bank officials namely Shri Shukla and Tiwari. The Prescribed Authority after considering this alternative accommodation had recorded finding in favour of the petitioner. The appellate Court has refused to look into the alternative accommodation offered by the petitioner in one line saying that this offer was not bona fide. There is nothing on the record to show that offer was not bona fide.

3. The accommodation was not occupied by two bank official and was vacated. Rule 16 (1)(f) of the Rules clarifies that where the landlord offers to tenant alternative accommodation, reasonably suitable to the need of the tenant and his

family then the landlord's claim for release of building shall be considered liberally. As this provision was not properly considered by the appellate Court, the order passed by the appellate Court is illegal and is set aside. The case is remanded back to the appellate Court for redecision in accordance with law. It would be open to the parties to file fresh affidavit before the appellate Court. The parties may appear before the District Judge on 1092001 and thereafter the District Judge, Jhansi may decide the case himself or may send to any other competent Court. The appeal may preferably be decided within six months.

With these observations the writ petition is allowed.