

**(1999) 12 AHC CK 0043**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 40535 of 1999

Lallan Prasad

APPELLANT

Vs

Rent Control and Eviction Officer Allahabad and Others

RESPONDENT

**Date of Decision :** 02-12-1999

**Acts Referred:**

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —  
Section 12, 16  
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Rules, 1972  
— Rule 8(2)

**Citation :** (1999) 12 AHC CK 0043

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

## Judgement

Sudhir Narain, J.—This writ petition is directed against the order of the Rent Control and Eviction Officer dated 1061999 whereby the disputed accommodation was declared as vacant.

2. The version of the petitioner is that Badri Prasad, his father, was a tenant of the two room shop in question situate on ground floor of Premises No. 414/352, Old Katra, Allahabad, owned by respondent No. 3. An application was filed for release by respondent No. 3 on the ground that the tenant has removed his effects from the shop in question. It is kept locked and it should be declared as vacant. The Rent Control and Eviction Officer called for a report from the Inspector. The Inspector submitted a report on 2331999 stating that Badri Prasad was father of the tenant of the premises in question. He was informed that the shop has been kept locked for about ten years. His son Lallan Prasad, the petitioner, is a Principal in Bharat Scout and Guide and he has removed the effects. The Rent Control and Eviction Officer sent notice to the petitioner but he found that nobody appeared on behalf of the tenant. He declared it as vacant by the impugned order dated 10th June, 1999 and subsequently released in favour of respondent No. 3.

3. I have heard Sri P.K. Shukla, learned counsel for the petitioner, and Sri A.D. Saunders, learned counsel for the respondent.

4. Learned counsel for the petitioner submitted that the petitioner was not afforded opportunity of hearing before the impugned order was passed. In the counteraffidavit it has been stated that the notice was sent. Admittedly, the petitioner did not receive any notice. Secondly, the Rent Control Inspector submitted report without complying with Rule 8(2) of the Rules framed under U.P. Act No. 13 of 1972 by not giving notice to the tenant. Thirdly, he found the shop locked. As to whether the goods had been removed or not it could have been ascertained only when the lock was opened and further there was any evidence which established that the goods have been removed.

5. Learned counsel for the respondent submitted that the petitioner is Principal in an institution Bharat Scout and Guide and therefore he is not carrying on any business. On the other hand learned counsel for the petitioner submitted that the son of the petitioner, in fact, is carrying on business. It is a question of fact to be determined by the Rent Control and Eviction Officer.

6. As the petitioner had not received notice, considering the facts and circumstances of the case, I quash the order dated 10th June, 1999 and allow the writ petition. The Rent Control and Eviction Officer is directed to decide the question of vacancy afresh within six weeks from the date of production of a certified copy of this order after affording opportunity to the parties concerned. Petition allowed.