

(1987) 02 AHC CK 0019

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 4515 of 1986

Madan Lal

APPELLANT

Vs

Rent Control and Eviction Officer and Others

RESPONDENT

Date of Decision : 06-02-1987

Acts Referred:

Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 197, 198
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 16(1), 17, 34
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Rules, 1972
— Rule 10, 28

Citation : (1987) 1 AWC 473

Hon'ble Judges : Ravi S. Dhavan, J;K.C. Agarwal, J

Bench : Division Bench

Advocate : S.K. Mehrotra and Sudhir Chandra, for the Appellant; Faujdar Rai, Satya Prakash and U.N. Sharma, for the Respondent

Final Decision : Allowed

Judgement

Ravi S. Dhavan, J.—The crucial and relevant events and the issues raised in the present writ petition are condensed within 24 hours; between 28 November, 1985 and 29 November, 1985. The controversy in the writ petition can best be appreciated by not ignoring the submissions made on behalf of the contesting Respondents at the close of arguments at the Bar. It was contended on behalf of the contesting Respondent, that notwithstanding the fact that he had taken the law in his own hands, yet the Petitioner must be relegated to the alternate remedy in pursuing the revision filed before the District Judge, Allahabad and accordingly the writ petition be dismissed on the ground that it is not maintainable for reasons that an alternate remedy had yet to be exhausted. This Court, regard being had to the circumstances of the present case, noticed the submissions but negatived the request.

2. The present writ petition invokes the extraordinary jurisdiction of this Court

under Article 226 of the Constitution of India to seek redress against an alleged auction of what today is commonly known as house-grabbing.

3. There is a property situate at 3, Tashkant Road, Allahabad. There are several buildings on this plot. The property is in the hands of six brothers, who are co-lessees. These are Messrs Behari Lal, Firozi Lal, Roshan Lal, Madan Lal, Ratan Lal and Pyare Lal, who owned the plots No. 1, 2, 3, 4, 5 and 6 respectively at the aforesaid address. The Petitioner is Madan Lal, who owns plot No. 4. There was a proceeding for allotment of the premises of Behari Lal aforesaid, who owns plot No. 1. But, apparently the contesting Respondent walked into and occupied the premises owned by the Petitioner, Madan Lal.

4. The proceedings for allotment were under the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, U.P. Act No. XIII of 1972 and the rules framed thereunder, hereinafter referred to as the Act and the Rules. The contention of Learned Counsel for the Petitioner broadly speaking is two fold. Firstly, it was submitted that the allotment proceedings are vitiated as they are not in accordance with the procedure established by law and are without jurisdiction from its inception. Secondly, it is contended that admittedly the allotment proceedings in which the contesting Respondent was participating were in respect to the premises owned by Behari Lal, these are maters of record, but the Respondent No. 3 walked into the premises of Madan Lal, the Petitioner and as such he is a trespasser.

5. On behalf of the Respondent No. 3 (hereinafter referred to as the contesting Respondent), the arguments of the Petitioner were countered by two submissions. Firstly that the petition is misconceived, as against an order of allotment a revision lies before the District Judge and this remedy has already been initiated by the Petitioner and the revision is pending. We will deal with this argument subsequently in detail. The second submission is that even according to the entries on the record of the Nagar Mahapalika, Allahabad the property has not been partitioned and is recorded jointly in the names of six persons mentioned above, and in the writ petition. The premises, in effect, not being identifiable, it is contended, saves the allotment order even though it may not be specific in reference to the identity of accommodation.

6. In rejoinder Learned Counsel for the Petitioner Mr. Sudhir Chandra Agarwal, raised the arguments that his client had filed a revision before the District Judge and also obtained a stay order by which the operation of the allotment order against the premises in question was stayed and put in abeyance. But despite the stay order of the District Judge the contesting Respondent occupied the premises. He submitted, that there is nothing left in the revision as the contesting Respondent has taken the law in his own hands and has defeated the stay order granted by the District Judge. It is further contended on behalf of the Petitioner that there is no confusion about the identity of the premises, which are not joint even on records of the Nagar Mahapalika and that the contesting Respondent has materially suppressed facts by presenting to the Court only half

the information and suppressing the rest.

7. This petition was heard by us on 23 May, 1986, 21 July 1986, 1 August 1986 and 5 August 1986. On these dates, on behalf of the Petitioner arguments were addressed, as already mentioned above, by Mr. Sudhir Chandra Agarwal, Advocate, and on behalf of the contesting Respondent by Messrs Faujdar Rai, Satya Prakash and Mr. U.N. Sharma, Advocate.

8. During the course of hearing, this Court had an occasion to issue notice to the Administrator, Nagar Mahapalika, Allahabad by requiring this municipal corporation to file an affidavit of a responsible officer to explain the discrepancies in issuing two certified copies from the property Register, but in respect to the same property. The certified copies were in reference to the ownership of the property. The information in the certified copies was at variance. A photo copy of a certified copy certified by the Nazul Superintendent, appended by the contesting Respondent to his counter affidavit is Annexure 1, shows the names of six persons mentioned above as owners. The certified copy was attested on 10 December, 1985. The impression which this document conveys is that the property at 3, Tashkant Marg is joint. Even the counter affidavit in paragraph 4 mentions that the property continues in the name of "a Board of Foreign Mission". The statement in the counter affidavit is "at present the aforesaid persons are recorded and the Petitioners are still continuing in the record of Nagar Mahapa-lika, Allahabad, jointly" emphasis supplied. This issue is otherwise not relevant, but as an attempt has been made to mislead the Court on the issue of title, it became necessary to issue a direction to the Administrator, by an order of 22 July 1986 to show cause on the correct state of affairs from the property Register. The reasons why such a direction became necessary was that the Petitioner in his rejoinder affidavit has also produced a record of the Government Order by which the property in question was permitted to be sold by the Governor of Uttar Pradesh to the six brothers aforesaid. The Government Order number is 1317 B/N-KH-296/60 dated 9 August, 1961. This is annexure R.A. I to the rejoinder affidavit. Also, the Petitioner has further placed before the Court a letter from the Collector, Allahabad to the Mukhya Nagar Adhikari, Nagar Mahapalika, Allahabad placing on record that the share of each of the brothers has been demarcated by giving each plot its number and the area of each plot. The letter of the Collector is dated 3rd August, 1963, and is appended as annexure R.A. 2 to the rejoinder affidavit. Its contents are reproduced below:

From The Collector, Allahabad.

To,

The Mukhya Nagar Adhikari, Nagar Mahapalika, Allahabad. Subject: Partition of site No. 11, Civil Station, Allahabad.

Sir,

With reference to the correspondence resting with your letter No. 1816/12/

Nazul-2/60-61 dated September 26, 1961 on the subject mentioned above, I have the honour to say that as communicated through G.O. No. 13178/XI-KH-296-60 dated August 9, 1961, Sri Ratan Lal and others have purchased the 1/4th share of Sri Kalidas in the site in question and got the sale deed registered on 20-12-1961 and to request you to kindly enter the names of all the six co-lessees against the area mentioned in the G.O. in your property register. Entries have been made in the register maintained in this office. The area after sub division falling into the share of each lessee is given below:

Plot No. Area Name of Lessees 1. 2050 Sqr. Yds. Sri Behari Lal. 2. 2006 Sqr. Yds. Sri Firozi Lal. 3. 2009 Sqr. Yds. Sri Roshan Lal. 4. 2000 " " " Sri Madan Lal. 5. 2170 " " " Sri Ratan Lal. 6. 2023 " " " Sri Pyare Lal. Yours faithfully Sd/Collector Allahabad.

No. 137 (i)/sc-XZ-I/64 57-58 of date

Copy forwarded to Sri Pyare Lal, 3, Edmonston Road, Alld. for information with reference to his application dated December 26, 1961.

Sd/Illegible For Collector 3/2/62 Allahabad.

9. The Petitioner also appended an extract from the Register of Government Property (Nazul) Incharge of Nagar Mahapalika, Allahabad. The extract of this register is Annexure R.A. III to the rejoinder affidavit, which reveals that in this register also, the property is duly recorded against the name of each of the brothers by describing the plot numbers and the area assigned to each share.

10. Thus, with such glaring discrepancies on the record and that also arising out certified copies on the same subject matter, this Court was left with no option, but to summon the original register of properties from the Nagar Mahapalika and seek an explanation from the Administrator, Allahabad, why regarding the same subject matter, contradictory information was certified. The explanation offered by the Nagar Mahapalika in pursuance of the direction of the court was in an affidavit. The affidavit has been filed by an Octroi Superintendent, Nagar Mahapalika, Allahabad. A perusal of the affidavit filed on behalf of Nagar Mahapalika reveals that there was an attempt by the contesting Respondent to manufacture a plea to prejudice the Court under cover of a subterfuge by occupying the premises, and if challenged then take cover under a plea that the ownership and propriety rights of the holders are vague, the plea having been tailor-made to suit the situation. The affidavit of the Nagar Mahapalika clarifies the position as thus (a) that the certified copy issued on 12 March (Annexure 1 to the writ petition) was issued on 12 March 1986, and the reference of 12 March (1985) is "due to typing mistake" (b) that the information was sought by the contesting Respondent "one Sri Sharma, who is the (sic) lecturer in St. Joseph's (sic) College, Allahabad" had approached the Octroi Superintendent, then functioning as Tax Superintendent by giving reference of one Girja Shanker Misra, Senior Accounts Officer of Allahabad Development Authority". The affidavit goes on to say "on his request 1 had issued a certificate regarding the names of

the lessors of the said plots", (emphasis given). In the affidavit an attempt to explain the variance in the two certified copies to the effect that in the first certified copy issued to the contesting Respondent the entries as recorded on the right hand side of the property Register were certified and those on the left side were inadvertently left out. This implies that between the contesting Respondent and the Nagar Mahapalika either the contesting Respondent took advantage of an error or there was a collusion between the two to manufacture a plea to prejudice the Court by not producing the whole of the information before the authorities under the Act or for that matter before this Court. In paragraph 10 of the affidavit on behalf of the Nagar Mahapalika, it is mentioned that the second certified copy dated 3 July, 1986 appended as Annexure R.A. 3 was issued on the direction of the Administrator. In paragraph 11 of this affidavit the Octroi Superintendent at the relevant time holding the authority of Nazul Superintendent states that "the certificate, which was issued under the signature of the deponent was issued in his bonafide discharge of duties and was not to harm or support any one". Paragraph 11 of this affidavit accepts that there was an omission in not giving the whole of the information in the certified copy issued to the contesting Respondent. Thereafter in paragraph 14 of this affidavit, this deponent states that "if any conduct of the deponent creates even the remote suspicion in the mind of this Court that the conduct of the deponent was not up to mark, the deponent expresses his unqualified regret for having created such an impression and tenders unqualified apology". The explanation given on behalf of the Nagar Mahapalika in the affidavit sought by this Court, is far from satisfactory.

11. Whether there was a collusion between the Respondent No. 3 and the Nagar Mahapalika or not, is another issue. But, there is an admission on behalf of the Nagar Mahapalika that the information supplied was incomplete for not delivering the entire information that each of the six brothers aforesaid have a plot of their own, which was separate and not joint. So far as the Respondent No. 3 is concerned, no regret has been expressed despite the fact that the record, which was produced by this Respondent, so far as he is concerned has been falsified beyond a reasonable doubt. Thus, while the Nagar Mahapalika has admitted its fault, the Respondent No. 3 has expressed no regret that, firstly, the Court was misled by supplying only a part of the information and, secondly, a plea was manufactured to mislead the court and prejudice the Petitioner. This is a reprehensible conduct on behalf of the Respondent No. 3 by engineering a plea by fabricating a record otherwise than it is. So far as the Nagar Mahapalika is concerned we have already expressed that this Court is not satisfied with the explanation offered and it is scandalous that a public local body colluded in presenting a document at variance from the original to cause a plea to be manufactured and thwart the court of justice. These observations of this Court will be brought to the notice of the Administrator, Nagar Mahapalika, Allahabad and kept along with the confidential service dossier of the official, one Harish Chandra at present working as the Octroi Superintendent, Nagar Mahapalika,

Allahabad, alongwith a copy of his affidavit dated 29 July, 1986 filed before this Court. As an apology has been offered, unconditionally, this Court is not drawing up further proceedings in contempt or perjury for inferring with the course of justice.

12. We may also express that the Respondent No. 3 had barely entered into the premises, but lost no time in challenging the status of the landlord as owner and trying to confuse the issue that the proprietary rights of the property were not identifiable and that the brothers did not have an individual right over the plots, but were joint lessees. The Respondent No. 3 forgot his status that he had only been given permission by an allotment order whatever its worth to occupy the premises. Under the allotment order the status of an allottee does not confer any right to him. It is simply a permission to occupy a specified accommodation and by sufferance a landlord has to accept such an allottee as a statutory tenant, regard being had to the fact that the proceedings are otherwise valid and legal. It is a cardinal principle of continuance of a relationship of a landlord tenant that a tenant ought not to deny the title of the landlord, otherwise he would have to suffer the severance of the relationship between him and the landlord. The contesting Respondent even if he could be a valid allottee had no hesitation in occupying the premises but was quick to come out with a plea that his landlord was not identifiable.

13. The merit of the case has yet to be examined. The contention on behalf of the Petitioner that the allotment proceedings are vitiated, abinitio and further that the premises were grabbed and the assertion of the contesting Respondent that the Petitioner must pursue the alternate remedy by contesting the proceedings in a revision filed by him before the District Judge, are to be examined in the totality of the circumstances. After we had heard the issues arising off the writ petition at length and examined the facts of the case in detail, the Court made an observation for the benefit of the contesting Respondent that the submission of relegating the parties to contest the matter in revision before the District Judge can be considered by the Court provided the scale of justice is evenly balanced before the issue is debated before the District Judge. In the present case the ink on the allotment order was barely dry and the time to handover the premises as stipulated in the allotment order had not even been exhausted, yet the contesting Respondent occupied the premises in a manner which does not appear to be bonafide. This will be discernable from the record before us. This Court gave an option to the contesting Respondent to respect the injunction so issued by the District Judge and this Court will send the parties to be amenable to the jurisdiction under revision. The contesting Respondent did not even respond on the suggestion of the Court. The revision before the District Judge, thus ceases to be either an alternate or an efficacious remedy, the contesting Respondent made it so.

14. Several persons sought, by applications, the allotment of the premises No. 3, Tashkant Marg, Allahabad. The allotment proceedings were in pursuance of the

premises owned by one Behari Lal one of the brothers of the Petitioner. It is Behari Lal's premises which was engaging the attention of the Prescribed Authority, for allotment under the Act. The contesting Respondent was one of the Applicants, amongst many others. There were twelve other candidates seeking allotment. All were seeking an allotment of the premises of Behari Lal. The allotment proceedings became case No. 557 of 1982 Lalmani Tripathi v. Behari Lal Gupta Lalmani was also one of the Applicants seeking allotment of the premises of Behari Lal Gupta. The contesting Respondent joined in the affray. A list was drawn up of the prospective allottees who were vying for the premises of Behari Lal. The contesting Respondents' name was in the list. Nine persons in this list were not contesting seriously because they had either not appeared or had not perused their applications for allotment before the Rent Control and Eviction Officer/Prescribed Authority. This aspect is on record in the judgment of the Rent Control and Eviction Officer dated 25 November, 1985, annexure "7" to the counter affidavit, the allotment order of the same date (annexure 4 to the writ petition) was passed as a consequence of this.

15. Amongst those who pursued their applications or were considered by the Rent Control and Eviction Officer were three persons. These were Arun Kumar Chaurasia, Dr. Kartikaya Sharma and C.B. Sharma (the contesting Respondent No. 3). All were seeking an allotment order to occupy the premises of Behari Lal. Whether it was the premises of Behari Lal or Madan Lal (the Petitioner), at present is not relevant. In reference to Arun Kumar Chaurasiya, the Rent Control and Eviction Officer eliminated him on the ground that "Sri A.K. Chaurasiya, is a social worker and having 3 adult members (sic) and a child of 4 years in his family including his mother and father. It is not believable that so long his father and mother had been without proper accommodation and are only dependent on Sri Chaurasia (sic) his source of earning is not clear".

Dr. Kartikaya Sharma was filtered out by the Rent Control and Eviction Officer on the ground that: " Dr. Kartikaya Sharma another Applicant is a young and promising doctor but he is alone in his family and has just passed his M.B.B.S. It will take some time to settle him properly. Present his need is not so much justified as compared to the remaining two Applicants". These two Applicants having been eliminated, the case of C.B. Sharma, the contesting Respondent, was considered and accepted by the Prescribed Authority. This Court has already observed that at present the question regarding whose premises were the subject matter of an allotment is not so relevant. In reference to C.B. Sharma, the contesting Respondent, the Prescribed Authority/Rent Control and Eviction Officer says:

On the other hand C.B. Sharma is a teacher in St. Joseph's College, which is very near to the disputed accommodation and is not suitable (sic) located for C.B. Sharma. Besides then Sri Sharma has in his family one son of 25 years who may marry soon and his family may further increase and two more sons aged 15 and 12 years, who are studying in College. These two sons of Mr. C.B. Sharma

also need proper place to live so that they may continue their education properly. Sri C.B. Sharma has also filed an affidavit to support his need and genuineness for the disputed building being allotted in his favour. In these circumstances I find that the need of Sri C.B. Sharma is most genuine for the disputed building than that of any other Applicant for allotment and allotment should be made in favour of C.B. Sharma,

4. In the light of the above discussion the disputed building is hereby allotted to Sri C.B. Sharma on monthly rent of Rs. 100/- per month which Sri Sharma has agreed to pay mentioned (sic) in his application. Let formal allotment order be issued on prescribed form.

Sd. 28-11-U85 R.C.E.O. I, Allahabad.

28-11-1985

The counter affidavit gives this Respondents' age, the name of his father and that he is resident of 3, Tashkant Marg, Allahabad, but not his vocation. The order of 28 November, 1985, passed by the Rent Control and Eviction Officer records the status of this Respondent that he is a teacher in St. Joseph's College, Allahabad. Why did the contesting Respondent omit to describe his status before this Court? After all it was a relevant factor when his allotment application was being considered.

16. The order of the Rent Control and Eviction Officer in deciding the various applications for allotment shows a partisan attitude towards the contesting Respondent, which cannot be sustained in law. The criteria which found favour with the Rent Control and Eviction Officer are factors which did not exist. The Rent Control and Eviction Officer mentions that the accommodation is most suitable for C.B. Sharma. One ground is that it is near to the school where he works. The Rent Control and Eviction Officer sustained the allotment in favour of the contesting Respondent on the hypothesis that he has a son "who may marry". The happening of an event of a marriage of C.B. Sharma's son is itself being left vague by the Rent Control and Eviction Officer. Even the Rent Control and Eviction Officer is not sure whether C.B. Sharma's son will marry or not. The Rent Control and Eviction Officer is only expressing a hope that C.B. Sharma's son may marry. The Rent Control and Eviction Officer expresses that the son who may marry may add to the family, the members of which will increase. This son, who may marry, is he independent? In case he is marrying, he ought to be independent. Would he, under the circumstances, still be part of the contesting Respondent "family" within the meaning of the Act? Did the Rent Control and Eviction Officer consider these aspects? It is the need of C.B. Sharma, the contesting Respondent, which was being considered and this need was not meant to be contingent upon indeterminate plans of the sons, who may or may not marry. This alone vitiates the allotment order. It shows a reasoning which is manifestly erroneous on the face of the record. The Rent Control and Eviction Officer has manufactured the needs for C.B. Sharma in the absence of any

existing situation. He has taken a note of the possibility of the sons' marriage and upon yet another speculation that the family may increase. This sort of carving of needs is not a criteria upon which buildings can be subjected to allotment and then be usurped by persons seeking allotments.

17. Even in so far as C.B. Sharma, the contesting Respondent, was concerned he was seeking an allotment of the premises of Behari La). This is clear from the allotment application under Rule 10 in Form A. Column 15 of Form A seeks certain particulars. These are a specific description of the building, which the Applicant desires to be allotted, the name of the person or last occupant, the mode of vacancy and amongst others the name and address of the landlord. The allotment application is Annexure 3 to the writ petition. On the second page of the allotment application against item 15 (a) C.B. Sharma does not even mention the full name of the landlord. In reference to the last tenant and the mode of vacancy, against item 15 (c) the contesting Respondent states: "Riket Hai Gupta Dwara". In answering Clause 15(e)(Makandar Ka Naam Va Pata). This Respondent mentions the landlord as, Behari Lal Gupta. The endorsement against this item question reads: "Behari Lal Gupta, Bombai Ka Pata Agyat". Implying thereby that the address is not known. The most crucial point which confronted the Court is whether on such an allotment application a notice could ever be served on the landlord. The very purpose and intention of Rule 10 is that a notice would be served on the landlord so that he may have his say in the allotment proceedings. The intention that the requisite notice be served upon the landlord is implicit in Rule 10 and Rule 28, read with Section 34, Sub-clause 8, of the Act aforesaid. When the allotment application itself is devoid of details about the address of the landlord, it implies that a consequential notice is incapable of being served. Such an application as filed by the contesting Respondent C.B. Sharma, apparently reveals on the face of the record that the intention was that the landlord ought not to be served and an allotment order may be obtained behind his back. The address of the landlord as sought in the application form for allotment is conspicuous by its absence. The contesting Respondent mentions that the landlord is in Bombay and his address is not known. If this was the situation, where was an occasion to affix the notice on the premises at Allahabad. The contesting Respondent knew that Behari Lal, whose premises were being sought for allotment was not in Allahabad, but is residing at Bombay. What purpose would an affixation of a notice at Allahabad serve? This Respondent was resourceful enough to pry-into the records of the Nagar Mahapalika, Allahabad to scrutinise the property Register, and then arrange to present only a part of the information so as to tailor an advantageous pleading. Leaving the address of the owner of premises vague on the allotment application, implied that the owner Behari Lal ought to be kept away in having a say in the allotment of an accommodation in the premises owned by him. This was denying an opportunity to the owner, Behari Lal, in the matter of allotment. Such a right is conferred upon a landlord under the Act and Rules, this right or opportunity to participate in the allotment proceedings is writ large in Section 16(1) of the

proviso and Section 17 of the Act. In so far as the contesting Respondent is concerned, it is his information that Behari Lal does not reside at Allahabad, but at Bombay. The last known place or abode of the owner was thus anywhere, but Allahabad. An affixation of notice at Allahabad, when according to the contesting Respondents' knowledge the owner was at Bombay, was making a mockery of the principles of service of notice as prescribed under Rule 28. The Petitioner, Madan Lal, contends both in his writ petition and the rejoinder affidavit that his brother Behari Lal whose premises were being sought by allotment resides in Australia since the last fifteen years and has not been to India since. One factor is clear then beyond doubt, that Behari Lal was not available at Allahabad. Is an accommodation owned by a non resident Indian so vulnerable so that it can be usurped and trespassed virtually for the askance?

18. Looking at this allotment application made by the contesting Respondent, for the purpose of service of notice, from any angle it is clear that the requirement of law in describing the address of the owner of the building or the landlord, was not met. In fact, on this aspect no particulars at all were given. Like a plaint with insufficient particulars on the Defendants' address, the allotment application ought to have been rejected straight away for want of sufficient particulars required to be delivered under the law. At least this allotment application could not be considered or acted upon. The allotment order resting on this application of the contesting Respondent was against the law and without jurisdiction. It is incomplete, vague and devoid of particulars required under the law. Such an application could neither be entertained nor considered.

19. If such applications for allotment were to be taken cognizance of and considered, then it implies that a landlord can never be served and it would be tantamount to an abuse of the powers conferred on the Prescribed Authority, or the Rent Control and Eviction Officer in making allotment of accommodation. The principles of serving the landlord on his correct, specified and identifiable address is that the rule of natural justice is to be complied with so that a landlord may object, firstly, if the vacancy has been declared erroneously and secondly, to participate in the proceedings if it is not a matter of vacancy. Consequently, this Court hereby declares and certifies by a writ in the nature of certiorari that the allotment application filed by the contesting Respondent bearing No. 717, dated 28 September, 1985, Annexure "3" to the writ petition did not have the requisites and status of being acted upon and under the law could not be taken cognizance of. The proceedings which ensued and culminated in the judgment dated 25 November, 1985 of the Rent Control and Eviction Officer electing the contesting Respondent as an allottee and the consequential allotment order of the same date are without jurisdiction and illegal.

20. The processing of the allotment order, its issuance and the formality and its being signed, sealed and delivered takes time. The judgment of the Rent Control and Eviction Officer on 28 November, 1985 selected the contesting Respondent as an allottee. The formal allotment order also dated 28 November, 1985,

consequential to the judgment aforesaid, on the prescribed form was, in effect, the decree following the judgment. The allotment order has been appended by the Petitioner as Annexure "4" to the writ petition. It appears that it was processed, signed, sealed, delivered and issued on the very day on which the Rent Control and Eviction Officer selected, by a judgment of the same; date, the contesting Respondent as an allottee. This shows that the contesting Respondent had sufficient interest at the office of the Rent Control and Eviction Officer to have the formal allotment order, processed, signed, sealed and delivered on the very day on which the judgment was passed. The rush in procuring the formal allotment order was within hours of the judgment and indeed that such was the case is clear from the record. This was only a part of the exercise in speed with which the sequence of event were to take place to make use of the allotment order. Having procured the allotment order the contesting Respondent did not bide his peace The allotment order directed the landlord Behari Lal, that he may deliver possession of the premises in question by 8 December, 1985. But, Behari Lal had admittedly not been served. The intention of the contesting Respondent was not bonafide in wresting the possession of the premises. He took possession of the premises on 29 November, 1985. Now the question arises where was the hurry in having the allotment order processed and duly signed, sealed and delivered on 28 November, 1985 and further where was the necessity or hurry to occupy the premises within hours of the allotment order on the morning of 29 November, 1985? Why did not the contesting Respondent give an opportunity to the landlord to deliver possession of the premises to him before or by 8 December, 1985, the date mentioned in the order? The rush and the hurry is explained from the grievance of the Petitioner in the writ petition.

21. The Petitioner says that the contesting Respondent walked into the premises owned by him that is on plot No. 4 at 3, Tashkant Marg, Allahabad. The premises of Madan Lal, not Behari Lal. The hurry of the contesting Respondent is also explained in the writ petition. When the allotment order was passed, the Petitioner, Madan Lal, was out of station. This assertion has been made in paragraph 8 of the writ petition and has not been denied in paragraph 11 of the counter affidavit.

22. The Petitioner contends that upon the awareness of an order of allotment, his caretaker filed a revision on 30 November, 1985 before the District Judge, Allahabad, along with a stay application. Infact, this revision had been filed within forty-eight hours of the judgment of the Rent Control and Eviction Officer by which the contesting Respondent had been selected as an allottee. The Petitioner pleads that the stay order was granted by the District Judge as a consequence of which the operation of the allotment order had been stayed. But despite this, in violation of the stay order passed by the District Judge the contesting Respondent took forceable possession of the premises at 9 p.m. on 30 November, 1985. The stay order of the District Judge in any case was frustrated by the contesting Respondent in the manner in which he took possession of the premises. The allotment order was not meant to be acted upon after the District

Judge passed the stay order and in any case the contesting Respondent ought to have permitted the landlord, in accordance with the allotment order, to deliver possession before or on 8 December, 1985. Possession of the premises could not be wrested before this date. But the contesting Respondent chose to walk into the premises within hours or at least within twenty four hours of the allotment. The allotment order was to take effect upon the landlord delivering possession on or before the date mentioned in the allotment order. Should the landlord have not acted in accordance with the stipulations in the allotment order, then and only then could the contesting Respondent seek the help of the appropriate authorities to be put into possession. The contesting Respondent bypasses both criteria.

23. The contesting Respondent has his own story to justify the manner in which he took possession of the premises. According to the contesting Respondent he had taken possession of the premises on 29 November, 1985. He says that this can be proved by the fact that on behalf of the Petitioner (it has already been explained that the Petitioner was not in town), a First Information Report was lodged with the police in the afternoon at about 1.30 on 29 November, 1985, which itself implies that the contesting Respondent was in possession. A copy of the First Information Report instituted with the Police Station Cannington, seeking protection on the Petitioner's premises is Annexure "9" to the counter affidavit. The only aspect upon which this First Information Report dwells, is that the contesting Respondent, a teacher in St. Joseph School, entered into the premises in question along with 30-40 students and broke open the lock of the premises of Pyare Lal Gupta and attempted to enter the premises and was further damaging the goods and was arranging to remove them from the premises. This First Information Report is not evidence, as alleged by the contesting Respondent that he was in possession of the premises. It only implies that he was attempting to make forceable entry into the premises." The contesting Respondent asserts in his counter affidavit that he had already obtained possession in the morning at about 10 "O" Clock on 29 November and had intimated the Rent Control and Eviction Officer, accordingly, the same day, this Respondent, further relies on the report of the police, by the Sub-Inspector, filed in the general-diary. The report is of 15.30 hours on 29 November, 1985. In reference to this report, the contesting Respondent claims that the police found him in possession of the premises at that time. Nothing of the sort as is contended or alleged by the contesting Respondent has been borne out from this report of the police. This police report merely shows that an inspection was made by the Sub-Inspector of Police concerned. In pursuance of this personal inspection by the Sub-Inspector on the spot, C.B. Sharma (the contesting Respondent) was required to show his papers and the allotment order. The Sub-Inspector of police mentioned in his report that the premises for allotment was recorded against the name of Behari Lal. This report further places on record that the investigation was at the instance of the person who instituted the First Information Report, namely, Pyare Lal Gupta, who complained of house

tresspass. The Sub-Inspector had reservations and doubt on the premises which were attempted to be occupied. It is for this reason that the Sub-Inspector requested the contesting Respondent, as mentioned in his report, that he must go back to the Rent Controller and seek a specific verification, in effect, on the identity of the premises against which the allotment order stands. The Sub-Inspector also records that the matter of possession of the premises has been exaggerated by the person who instituted the First Information Report. The report of the Sub-Inspector of Police itself implies that possession could not have been taken on 29 November, 1985. While the Sub-Inspector was making an observation that the issue of forceable possession has been exaggerated, simultaneously, he was requiring the contesting Respondent (C.B. Sharma) to go back to the Rent Controller and seek a clarification on the identity of the premises. It would be best to reproduce the report of the Sub-Inspector dated 29 November, 1985 as the contesting Respondent would desire this Court to see; (the Sub-Inspector's report as translated):

The question is of possession. The opposite party Sharma was cautioned and advised that he must appear before the Allotment Authority and seek a clarification on which house has been allotted.

The Sub-Inspector further mentions in reference to the FIR, on behalf of the Petitioner that:

the issue of (forceable) possession has been exaggerated....

24. Thus, as far as the Petitioner was concerned, the Sub-Inspector recorded that the fact that C.B. Sharma, the contesting Respondent, may have wrested possession, is an unnecessary exaggeration. Implying that an attempt may have been made, but unsuccessfully. In reference to the contesting Respondent the Sub-Inspector placed on record that the question of delivery of possession did not arise as even the identity of the premises, so allotted, was vague and not specific, and no possession could be had. The Sub-Inspector relegated the contesting Respondent back to the Rent Control and Eviction Officer to seek a clarification on the allotment order and have the accommodation specified. With this background, contrary to what the contesting Respondent suggests, it is difficult to presume that possession of the premises, whose ever they may be, had been taken on the day of the allotment order, or even the next day. With a vague allotment order in which the accommodation was not identifiable, and a clarification was wanted by the police the question of possession at the hands of the contesting Respondent did not arise.

25. Thus, the contesting Respondent has made an incorrect statement on oath in paragraph 12 of the counter affidavit to the effect that the police official who had visited the premises in dispute in pursuance of the Petitioner's First Information Report had found that the contesting Respondent had obtained possession in pursuance of the allotment order, aforesaid. The contesting Respondent has in haste filed the report of the Sub-Inspector (Police) as is recorded in the General

Diary In the afternoon at 15.30 hours on 29 November, 1985. This is annexure 10 to the counter affidavit to which this Court has already referred. Far from implying that the contesting Respondent was in possession, the Sub-Inspector's report categorically placed on record that the question of possession under the allotment order does not arise as the allotment order does not specify which accommodation is to be occupied. The contesting Respondent has attempted to mislead this court that he was in possession of the premises on or before 29 November, 1985.

26. Again the contesting Respondent has attempted to fortify his plea of having obtained the possession under the allotment order on the morning of 29 November, 1985 at about 10 a.m. In supporting this plea, the contesting Respondent relies on a letter which he wrote to the Rent Control and Eviction Officer, Allahabad, on 29 Nov., 1985. This is annexure 11 to the counter affidavit. This letter of the contesting Respondent mentions that in pursuance of the allotment order of 28 November, 1985 he has taken peaceable possession at 10 "O" clock in the morning. The letter further mentions that this information be brought on record of the file. The proposition made in this letter is doubtful in reference to the day when it was written or inserted on the file of the proceedings before the Rent Control and Eviction Officer. On 29 November, 1985, late in the afternoon the Sub-Inspector had declined to help the contesting Respondent in putting him into possession of the premises under the allotment order for the simple reason that the Sub-Inspector felt that the accommodation or the house against which the possession was sought had not been specifically described in the allotment order. The Sub-Inspector required the contesting Respondent to seek a clarification as to which accommodation or house was the subject matter of allotment. As already narrated, this was late in the afternoon. Thus, where was the occasion for the contesting Respondent to have taken possession in the morning on that day when he was not in possession late in the afternoon and the police declined to assist him, for the simple reason that in the allotment order the description of the house was not discernable. The contesting Respondent, does not mention or even suggest in the counter affidavit that in pursuance of a clarification from the Rent Control and Eviction Officer as required by the Police he took possession of the premises. The letter inserted by the contesting Respondent on 29 November, 1985, aforesaid stipulates that, he had taken possession of the premises at 10 "O" clock in the morning. He makes an incorrect statement of fact. The record as presented by the contesting Respondent itself shows that the possession of the premises was neither taken on 28 Nov. nor on 29 Nov., 1985. The clarification which was required by the Police, apparently never saw the light of the day. The allotment order, thus, remains vague as far as it referred to the specific accommodation of the house, which was allotted to the contesting Respondent. It was never clarified. In fact, the report of the Police aforesaid belies the contention of the contesting Respondent that the possession had been taken on 29 November, 1985.

27. The clarification could not have been sought beyond late afternoon of 29

November as the court are about to rise at about that time and then, where was the hurry to seek such a clarification when there was time till 8 December, 1985 for the landlord to deliver vacant possession failing which the contesting Respondent could, after this day, seek police help. The clarification was never sought, the accommodation was never specified the police could not help the contesting Respondent for want of specific information on the exact premises and there was hardly any occasion, in these circumstance, for the contesting Respondent to occupy an accommodation the identity of which was not clear. The contesting Respondent merely filed a letter dated 29 November, 1985, aforesaid, for the purposes of record so that later he could show from the file of the Rent Control and Eviction Officer that he had taken possession. But the contesting Respondent forgot that later in the day the police would question him on the allotment order and also send him back to the Rent Controller to have the allotment order specified in reference to a specific accommodation. The clarification which the police required had yet to be taken and indeed this exercise was never indulged in.

28. The next day, was 30 November, 1985. On this day the District Judge passed the stay order rendering the allotment order inoperative. The clarification on the allotment order was never taken, it has yet to be taken. The contesting Respondent walked into the premises in utter disregard of the stay order of the District Judge, by taking the law into his own hands and this action of the contesting Respondent was house-grabbing. Thus, the contesting Respondent holds and continues in the premises in question, and it does not matter in whose premises they are, by defeating the stay order of the District Judge by flouting its terms with impunity. This implies that this Respondent has no respect for the law. The possession of this Respondent of the premises aforesaid has always, been illegal. It is in these circumstances which the court had perceived, that it had expressed that indeed if the contesting Respondent would like to contest the revision filed by the Petitioner before the District Judge then, the scales of justice ought to be balanced evenly. This could only be done if he would deliver vacant possession of the premises to the Petitioner so that the Court could dismiss the petition on the ground of an effective alternate remedy and permit the parties to resolve the lis between them before the District Judge in the revision. We left it to the contesting Respondent to exercise this option by so indicating it, and that if he chooses to argue the matter on merit then the court will assume that he had not put much importance to the observations offered by the Court. We are repeating, that it was at this stage that it was expressed on behalf of this Respondent that notwithstanding that he had taken law into his own hands, yet the Petitioner must be relegated to pursue his alternate remedy. At this the Court had observed that it could not permit the jurisdiction under Article 226 of the Constitution of India to be used in encouraging the illegalities and the moment contesting Respondent accepted that he had taken the law in his own hands, equity was against him. The record shows that the contesting Respondent has not only committed illegalities, but has also flouted the stay order of the District

Judge so as to defeat the purpose for which the revision was filed.

29. With these antecedents and circumstances, the plea of alternate remedy raised by the contesting Respondent cannot be considered and accepted in isolation. In the overall circumstances, the conduct of this Respondent has been such that his defence has not been clean and has negated all principles of equity. On behalf of the contesting Respondent cases were cited on the plea of an alternate remedy to fault the writ petition. The citations were Assistant Collector of Central Excise, Chandan Nagar, West Bengal Vs. Dunlop India Ltd. and Others, , Titaghur Paper Mills Co. Ltd. and Another Vs. State of Orissa and Others, and Sohanlal Vs. The Union of India (UOI), .

30. If the submissions of the contesting Respondent were to be accepted, then a straight Jacket formula ought to apply to a plea of an alternate remedy, in reference to the context. This was neither intended nor can be so. A party Respondent requiring the dismissal of a writ petition, must appear and plead before this Court with clean hands. Such a Respondent cannot violate the law, harass the Petitioner so that justice is denied or be in collusion with public bodies and State Authorities so that justice according to law has not been dispensed, and then require this Court to close its doors on the Petitioner. The very rule which applies to the Petitioner, that he must approach the court with clean hands, will apply to the Respondent also. This Court said so in a Full Bench decision in AIR 1951 All. (FB) Asiatic Engineering Co. v. Achhru Ram this yardstick will apply equally to a Respondent if he desires this Court not to exercise its discretion in favour of the Petitioner, but the formers' conduct in the proceedings in issue, is reprehensible. Likewise, neither can the cases cited at the Bar on behalf of the contesting Respondent be seen in isolation. In each of the cases, the parameters of interference in the jurisdiction before us, have been prescribed by the Supreme Court regard being had to the circumstances of each case. Taking the cases cited one by one, in the matter of Assistant Collector of Central Excise, Chandan Nagar, West Bengal, the Supreme Court expressed:

All this is not to say that interim order may never be made against public authorities. There are of course cases which demand that interim orders should be made in the interest of justice. Where gross violations of the law and injustices are perpetrated or are about to be perpetrated it is the bounden duty of the Court to intervene and give appropriate interim relief. In cases where denial of interim relief may lead to public mischief, grave irreparable private injury or shake a citizen's faith in the impartiality of public administration, a Court may well be justified in granting interim relief against public authority. But since the law presumes that public authorities function properly and bonafide with due regard to the public interest, a court must be circumspect in granting interim orders of far reaching dominions or orders causing administrative burdensome inconvenience or harm and that a prima facie case has been shown. There can be and there are no hard and fast rules. But prudence, discretion and circumspection are called for. There are several other vital considerations apart

from the existence of a prima facie case. There is the question of irreparable injury. There is the question of public interest. There are many such factors worthy of consideration. We often wonder why in the case of indirect taxation where the burden has already been passed on to the consumer, any interim relief should at all be given to the manufacturer, dealer and the like.

31. In the matter of Titaghur Paper Mills Co. Ltd. (supra) the Supreme Court was reiterating the criteria of interference under Article 226 of the Constitution of India, and in reference to the case before it, decided that the criteria would not apply. This criteria was already set in an earlier decision of the Supreme Court which was noticed, it was in State of U.P. v. Mohammad Nooh AIR 1958 SC 86 at page 94:

If an inferior Court or tribunal of first instance acts wholly without jurisdiction or patently in excess of jurisdiction or manifestly conducts the proceedings before it in a manner which is contrary to the rules of procedure and which offends the superior Court's sense of fair play the superior court may we think, quite properly exercise its power to issue the prerogative writ of certiorari to correct the error of the Court or tribunal of first instance, even if an appeal to another inferior Court or tribunal was available and recourse was not had to it or if recourse was had to it, it confirmed what ex facie was a nullity for reasons aforementioned.

32. The other citation referred to on behalf of the contesting Respondent is the case of Sohan Lal v. Union of India (supra) The proposition in this case does not aid the contesting Respondent either. In the circumstance and the facts before it the Supreme Court had itself given the exception under which the Appellant would have been denied relief. In paragraph 7, the Supreme Court observed in effect that in the event of it being proved that the Union of India and the Appellant had colluded and the transaction between them was not bonafide so as to deprive the Respondent of his rights, the Court would have made an order against the Appellant. The facts of this case were that there was a displaced person and a refugee from Pakistan, one Jagganath. He sought an allotment of a house in West Patel Nagar, Delhi, consequent upon his status as a displaced person and that he had to receive compensation as a refugee. He was allotted a particular house in West Patel Nagar, New Delhi. Subsequently it was found by the authorities that the allotment application seeking housing in lieu of compensation as a displaced person contained a misrepresentation as Jagganath had already received agricultural land in the District of Hissar. Unfortunately, the said Jagganath had earlier been put into possession of the house by the authorities though without an allotment order. Jagganath was subsequently evicted and in the very accommodation which he had occupied one Sohan Lal, the Appellant before the Supreme Court, was given an allotment order, though also a refugee and a displaced person. In a writ petition by Jagganath before the Punjab High Court relief was granted to him in effect declaring that his eviction had been illegal and Sohan Lal, aforesaid and the Union of India, were directed

to restore possession of the house to Jagganath. Sohan Lal applied to the Supreme Court. In these circumstances the Supreme Court allowed the appeal of Sohan Lal on the ground that it was not anybody's case that Jagganath had been evicted from the accommodation for reasons that the Appellant Sohan Lal and Union of India were in collusion. The judgment of the Supreme Court implies that if it had been proved that Sohan Lal and Union of India were in collusion, then the relief sought by Sohan Lal would have been denied to him. The judgment of Punjab High Court was set aside for no other reason than that the Appellant Sohan Lal had received a valid allotment order of housing in lieu of compensation and there was no allegation against the Appellant, Sohan Lal, that he had obtained such an allotment order in collusion with Union of India.

33. The facts and circumstances, in the present writ petition, as have been scrutinised by this Court are otherwise than the issue before the Supreme Court in Sohan Lal's case (*supra*). In the writ petition before us, the local body vested with the statutory obligation of keeping the Property Register has admitted that the status and title as presented by the Petitioner before this Court, was writ large with inaccuracy and at variance with the record in original. "The local body has apologised for its fault in issuing an incorrect certified copy at the behest of the contesting Respondent. A plea was manufactured by the contesting Respondent to cast a doubt on the title of owner of the property and it was in collusion with the local body. The local body is not prepared to align with the contesting Respondent's claim and has retracted the statement of affairs on the property as the contesting Respondent desired to misrepresent. We have already observed that the conduct of the contesting Respondent has not been fair and clean; this is only modestly describing the action of the contesting Respondent. The facts reveal that the contesting Respondent has made an incorrect statement on oath.

34. Thus, now of the three cases placed before this Court, on behalf of Respondent, none would aid him in the proposition that the writ petition ought to be dismissed on the grounds of an adequate or efficacious alternate remedy, in the revision pending before the District Judge, Allahabad. As already observed earlier, the contesting Respondent has by his unfair and fraudulent conduct rendered the alternate remedy as inadequate, inefficacious and redundant. This Court will, thus, appropriately exercise its discretion and writ. The legal submission of an alternate remedy, in the facts and circumstances of the present case, was not a stable proposition, and should never have been made.

35. The allotment order remained vague on the identity of the premises. The clarification was never sought. The possession of the premises of Madan Lal was obtained after 29 November, 1985. It could not be on 30th November; such is not even the contesting Respondent's case. And, on this date the District Judge, Allahabad, had stayed the operation of the allotment order. The premises at 3, Tashkant Marg, Allahabad, whosever's they may be, were occupied unauthorisedly, illegally and in the face of the stay order of the District Judge,

aforesaid.

36. The contesting Respondent took a novel plea, in the alternative, to justify the illegal occupation of a premises under an allotment, notwithstanding it was vague for want of specific description on the identity of the premises. It was urged on behalf of the contesting Respondent that even if the allotment order was vague on the description and the identity of the house or the premises to be occupied, yet in so far as he is concerned no irregularity has been committed in occupying the premises in his possession at present. This implies, before this submission of the contesting Respondent can be considered further, that it is admitted that the contesting Respondent has occupied the premises of Madan Lal, the Petitioner. The logic in justifying the occupation of the; premises of Madan Lal is that, according to the contesting Respondent, the property at 3, Tashkant Marg, Allahabad and the various buildings on it, are joint amongst all the brothers who own the property. This submission, the contesting Respondent bases on the plea he has taken in the counter affidavit. The submission offered before the Court is that as the property was joint between the six brothers, the question of indulging in an exercise to verify the identity or the ownership of the property in the name of respective brothers does not arise. In effect, this submission is based on the record as presented by the contesting Respondent to the effect that the Property Register as maintained by the Nagar Mahapalika, Allahabad, words the property of all the six brothers, not individually and separately, but jointly. This aspect has already been dealt with above in this judgment. This Court has already observed and taken the view that between the contesting Respondent and the local body known as Nagar Mahapalika, Allahabad, public records were presented before this Court in the pleadings otherwise than they are as original. A plea was manufactured by the contesting Respondent in collusion with the officials of the local body aforesaid by falsifying the public records to the effect that the Property Register in a reference to 3, Tashkant Marg, Allahabad, showed the status of the brothers as joint owners. When the original Property Register was summoned by the Court, it was found that the status of the owners in reference to the aforesaid property was that it had been demarcated and partitioned with the tacit permission of the State Government and each of the brothers held it so, separately and distinct, and their status was duly recorded on the records of Nagar Mahapalika and the Nazul Department of the State Government. The Official Incharge of the Property Register, aforesaid, offered an unconditional apology before this Court and sought forgiveness by an affidavit. The explanation in the affidavit has already been considered by this Court, and that discussion is not being repeated here again. The contesting Respondent ought to have taken a hint after this official had offered an unconditional apology that the plea which he had tailored in collusion with the officials of the local body aforesaid had collapsed. The official Incharge had admitted the mistake. He took a position of repentance before this Court, otherwise this Court would have proceeded against him for a crime against public justice u/s 197 of the Indian Penal Code, 1860. Instead, the contesting Respondent still presses his plea that notwithstanding

that the allotment order does not specifically describe the accommodation, it is not irregular or vague, as the property is held jointly by all the brothers. The contesting Respondent has pressed this plea vehemently and had not even expressed any apology that he had virtually falsified a public document on record with intent to cause damage or injury to the owner of the property. The plea was at variance with the original record and documents. The contesting Respondent is guilty of manufacturing a plea of joint ownership of a property, when on public records it was not so and at all material point such a plea was wrongly and falsely taken and likewise was wrongly and falsely certified by an official of a local body otherwise than on its records. Thus, this Respondent is guilty of giving false evidence. This is an offence against public justice within the meaning of Section 198 under Chapter XI of the Indian Penal Code. So that a crime for issuing or signing a false certificate, and using such a certificate can be seen in better perspective, both Sections 197 and 198 of the Code, aforesaid, are reproduced below:-

Section 197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such Issuing or sign certificate is by law admissible in evidence, knowing or believing false certifying that such certificate is false in any material point, shall be cate punished in the same manner as if he gave false evidence.

Section 198. Whoever corruptly uses or attempts to use any such certificate Using as true a as a true certificate, knowing the same to be false in any certificate known material point, shall be punished in the same manner as if he to be false gave evidence.

37. No regret or an apology has been offered before the Court, on the contrary the plea has been justified. This Court, thus, has no hesitation in directing the Registrar of this Court that he shall draw up a complaint and file it before the appropriate Magistrate at Allahabad cognizable to accept the same so that the contesting Respondent may be dealt with in accordance with law. Should the contesting Respondent offer an unconditional apology before this Court before the complaint is instituted, such an apology may be considered by this Court and dealt with provided it is forthcoming within a week from today as this Court deems fit and proper.

38. The sanctity of pleadings at the Bar of this Court cannot be abused and parties must come with clean hands to have their rights adjudicated. A petition under Article 226 of the Constitution of India is decided solely and simply upon the affidavit of persons who petition this Court and adversaries, who answer such petitions. A writ, order or direction in the nature of certiorari sought from a High Court under Article 226 of the Constitution of India to examine the record within the constraints of the jurisdiction under which it is issued can be had by stating the truth. There must not be any incompatibility in the plea, and the record on which the plea rests. No party can vary the presentation of a record so as to mislead the Court that it may exist in a state otherwise than the original. This is

precisely what the contesting Respondent has done, merely to justify his possession of a premises when neither he nor the police were certain beyond a reasonable doubt, that the allotment order in question could be given effect to. The contesting Respondent was impatient in seeking possession when he had been advised by the police that it would be appropriate if he has the allotment order clarified. The contesting Respondent did not give an opportunity to the landlord, mentioned in the allotment order, to deliver possession to him by the date as stipulated in the allotment order itself. This Court has examined the action of the contesting Respondent in grabbing the possession of the premises of the Petitioner, from every angle and has come to the conclusion that the Petitioner (Respondent) obtained possession of the premises, illegally and in defiance of the stay order granted by the District Judge. The possession of the premises was justified at the Bar of this Court, in a reprehensible plea by misinterpreting the status of the persons who hold the property and the plea of the contesting Respondent is in total contradiction to the original property Register summoned by this Court at the Bar.

39. Seeking an allotment of an accommodation is in itself a prelude to litigation. To ensure that proceedings under the Act are not abused, as they were in the issue before us, the obligation falls on the Prescribed Authority or the Rent Control and Eviction Officer. This obligation was not appropriately discharged in the issue before us. The defects in the proceedings have already been pointed out by this Court. The application of the Petitioner was writ large with vagueness but was entertained and acted upon when it ought to have been rejected and not considered for want of specific particulars. Then, the future needs of the Petitioner contingent upon the happening of events in posterity were imagined by the Prescribed Authority. This on its own was going too far. The allotment order which ought not to have been passed on a defective application, was itself vague and in reference to an unverified accommodation. The identity of the accommodation or its ownership is to be scrutinised from the municipal records so that a prospective allottee should seek possession of only that accommodation, which is owned by a particular landlord. In the present case the contesting Respondent was participating in the allotment proceedings qua the accommodation owned by Behari Lal. But the allotment order did not specify the identity of the accommodation. The allotment order itself was vague. If the allotment order is specific an allottee is to be delivered accommodation which he seeks as there is a statutory relationship between him and the landlord; provided the proceedings for allotment have been valid and legal. An allottee cannot utilise an allotment order and then challenge the status of the landlord. This is precisely what the contesting Respondent has done in the present case. No other person has a better title to the property except its true owner.

40. The purpose of the U.P. Act XIII of 1972 is merely to regulate the interest of the general public in the matter of letting, release and rent of accommodation and the eviction of tenants from certain classes of buildings situate in the urban areas. If a landlord bonafide requires an accommodation hitherto in possession

of a tenant, then regard being had to the principles outlined in the Act aforesaid, the bonafide need of the landlord is considered and if made out, granted. An accommodation once let and vacated, and otherwise vacant, is subject to the purview of the Act: such an accommodation is embroiled in proceedings for release or allotment. The right of an allottee of an accommodation, under an allotment order, is merely a permission to occupy a premises. Such a permission gives rise to a relationship of a statutory tenant between the landlord and an allottee. At times such a relationship so far as the landlord is concerned, is by sufferance. The Act does not confer any right upon a tenant to abuse the position and status of a landlord so as to walk into an accommodation and then tell the landlord: I have come to stay in the accommodation because you don't have a good title over the property. This was not the pleading when the contesting Respondent was seeking an allotment before the Rent Controller because at that time he had acquiesced to the position that the accommodation is owned by a specific person. How can he challenge the status of a landlord after he was issued an allotment order. A tenant who denies the status of a landlord must be evicted forthwith. The contesting Respondent accepted the six brothers as owners of their property when he was seeking an allotment, but had no hesitation in denying their status after he had walked into it. This legislation was not meant to be abused or to become a subterfuge for occupying other peoples premises, and for delinquents to walk into accommodations and then claim their rights as tenants.

41. The application of the contesting Respondent seeking allotment of a premises of a landlord whose address was not disclosed, is not an application which can be taken cognizance of, under the law. This Court, thus, certifies by a writ in the nature of certiorari that the said application was liable to be rejected and will be treated as such. The allotment proceedings which followed and terminated on this application were illegal. The allotment order suffers from other illegalities which have already been pointed out, and are not being repeated. This Court, by a writ, order or direction in the nature of certiorari quashes the order of allotment dated 28 November 1985 (Annexure 4 to the writ petition) and all consequential orders flowing from it. The contesting Respondent is an unauthorised occupant.

42. By a writ, order or direction in the nature of mandamus, this Court directs the Prescribed Authority/the Rent Control and Eviction Officer, the Respondent No. 1 and the District Magistrate, Respondent No. 2 to restore vacant possession within forty eight hours after sunrise and before sunset during daylight hours to the Petitioner, Madan Lal, aforesaid, of the premises occupied by the Respondent Chandra Bhushan Sharma, or his agent or assigns, under the aforesaid allotment order.

43. The writ petition, this Court is satisfied needs to be allowed with costs which shall be payable by the Respondent No. 3, Chandra Bhushan. The cost will stand at Rs. 1000/- (Rs. One thousand).