

(2026) 02 UK CK 1732

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2109 Of 2021

Maresh Chandra Shah

APPELLANT

Vs

Harish Chandra Joshi

RESPONDENT

Date of Decision : 10-02-2026

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation Of Letting, Rent And Eviction) Act, 1972 —
Section 21(1)(a), 22
Uttar Pradesh Urban Buildings (Regulation Of Letting, Rent And Eviction) Rules, 1972
— Rule 16
Constitution Of India, 1950 — Article 227

Citation : (2026) 02 UK CK 1732

Hon'ble Judges : Ashish Naithani, J

Bench : Single Bench

Advocate : Piyush Garg, Yogesh Pacholia

Final Decision : Allowed

Judgement

Ashish Naithani, J

1. The present petition under Article 227 of the Constitution of India is filed to quash the judgment and order dated 24.08.2021 passed by the learned District Judge, Almora in Rent Control Appeal No.04 of 2020, titled as "Harish Chandra vs. Mahesh Chandra Shah", whereby the appeal preferred by the Respondent-tenant under Section 22 of the U.P. Act No.13 of 1972 has been allowed, and the judgment dated 18.02.2020 passed by the learned Prescribed Authority releasing the shop in question in favour of the Petitioner-landlord has been set aside, and to consequently dismiss the Appeal No.4 of 2020 filed by the Respondent-tenant.

2. The relationship of landlord and tenant between the parties is admitted. The Petitioner is the owner of a shop forming part of "Devi Buildings", L.R. Shah Road, near Milan Chowk, Almora, which is situated on the ground floor in the main market area. The Respondent is a tenant therein at a monthly rent of ₹ 1,750/-.

3. The Petitioner, after his retirement, instituted a release application under Section 21(1)(a) of the Act pleading a bona fide, genuine and pressing need to establish a garment business at his native place, Almora, for sustaining himself and his family.

4. Heard learned counsel for the parties and perused the records.

5. Learned counsel for the Petitioner submitted that the impugned judgment dated 24.08.2021 passed by the learned District Judge, Almora suffers from manifest jurisdictional error. It was contended that the Appellate Court exceeded the limited scope of its jurisdiction under Section 22 of the U.P. Act No. 13 of 1972 by reappreciating evidence and substituting its own conclusions for the well-reasoned findings recorded by the Prescribed Authority.

6. It was argued that the Prescribed Authority had, on the basis of pleadings and evidence, recorded categorical findings that the Petitioner had a bona fide, genuine and pressing need of the shop in question to establish a garment business after retirement, and that the balance of comparative hardship tilted in his favour. These findings, it was submitted, were neither perverse nor unsupported by the record and therefore could not have been interfered with in appeal.

7. Learned counsel submitted that the Appellate Court committed a serious error in holding that accommodation on the first floor could meet the Petitioner's requirement. It was contended that the landlord is the best judge of his need and that a retail garment business necessarily requires a ground floor location in a market area, a reality which the Appellate Court failed to appreciate.

8. It was further urged that the Appellate Court ignored the statutory requirement of assessing comparative hardship. The Respondent had failed to lead any evidence of efforts made to search for alternative accommodation, whereas the Petitioner had established genuine hardship. Long duration of tenancy, it was submitted, cannot by itself defeat a bona fide need of the landlord.

9. Learned counsel for the Respondent supported the impugned judgment and submitted that no interference is warranted under Article 227 of the Constitution. It was argued that the Appellate Court has exercised its jurisdiction within the bounds of law and that the present petition is an attempt to seek reappreciation of evidence, which is impermissible in supervisory jurisdiction.

10. It was contended that the Petitioner failed to establish a genuine and pressing necessity for eviction and that the alleged need is not bona fide. Learned counsel submitted that the Petitioner had other accommodation available and that his requirement could reasonably be met without dislodging a long-standing tenant.

11. Learned counsel further argued that the Appellate Court rightly took note of the fact that the Petitioner had sold certain shops in the past, which casts doubt

on the genuineness of the claimed need. It was submitted that the conduct of the landlord is a relevant consideration while assessing bona fides under Section 21(1)(a) of the Act.

12. It was lastly contended that the Respondent has been carrying on his livelihood from the shop in question for a considerable length of time and that eviction would cause him serious hardship. The Appellate Court, according to learned counsel, rightly protected the tenant, and the impugned judgment does not suffer from perversity or jurisdictional error warranting interference.

13. Upon consideration of the pleadings, affidavits and documentary evidence, the Prescribed Authority recorded categorical findings that the Petitioner had established a bona fide and genuine need for the shop in question, that the Respondent had failed to prove any sincere effort to search for alternative accommodation, and that the balance of comparative hardship tilted in favour of the landlord. Consequently, the release application was allowed vide judgment dated 18.02.2020.

14. Aggrieved thereby, the Respondent preferred an appeal under Section 22 of the Act. The learned Appellate Court allowed the appeal primarily on the reasoning that the Petitioner had other accommodation available, including accommodation on the first floor, and that comparative hardship did not warrant eviction of the tenant.

15. The scope of interference under Article 227 of the Constitution is supervisory and not appellate. While this Court does not re-appreciate evidence as a court of appeal, it is duty bound to interfere where the subordinate court has acted in excess of jurisdiction, ignored settled principles of law, or recorded findings which are perverse or unsupported by the record.

16. Proceedings under Section 21(1)(a) of the U.P. Act No. 13 of 1972 are summary in nature. Findings of fact recorded by the Prescribed Authority, particularly on the issues of bona fide need and comparative hardship, are entitled to due deference and cannot be interfered with unless shown to be perverse or based on misreading of evidence.

17. In the present case, the Prescribed Authority recorded clear and cogent findings that the Petitioner, after retirement, required the shop in question to establish his own business and that such need was genuine and bona fide. These findings are supported by pleadings and evidence on record and cannot be characterised as arbitrary or perverse.

18. It is a settled principle that the landlord is the best judge of his requirement. The tenant cannot dictate as to how, where or in what manner the landlord should carry on his business. The Appellate Court fell into error in holding that accommodation on the first floor could adequately meet the landlord's requirement.

19. Judicial notice can be taken of the fact that a retail garment business

ordinarily requires visibility, accessibility and footfall, which are normally associated with a ground floor shop in a market area. The reasoning adopted by the Appellate Court is thus divorced from practical realities.

20. The finding of the Appellate Court regarding availability of alternative accommodation with the landlord is based on conjectures. The sale of two shops by the Petitioner was specifically explained as having been necessitated by medical exigencies relating to the treatment of his wife, which explanation was supported by medical documents and was not effectively rebutted by the tenant.

21. It is equally well settled that the need of the landlord is to be assessed as on the date of filing of the release application. Subsequent developments, unless they completely extinguish the need, do not dislodge a bona fide requirement established on the relevant date.

22. On the aspect of comparative hardship, the Prescribed Authority recorded a clear finding that the Respondent failed to lead any evidence showing efforts made by him to search for alternative accommodation. The Respondent also admitted availability of other property in close proximity. These findings have not been reversed on any legally sustainable basis by the Appellate Court.

23. The observation of the Appellate Court that comparative hardship need not be decided is contrary to Rule 16 of the Rules framed under the Act and is legally untenable.

24. The Appellate Court has allowed the appeal without dislodging the specific findings of fact recorded by the Prescribed Authority. Such an approach amounts to reappreciation of evidence beyond the permissible limits of appellate jurisdiction under Section 22 of the Act.

25. This Court is therefore of the considered view that the impugned judgment dated 24.08.2021 suffers from perversity, misapplication of settled principles of law and jurisdictional error, warranting interference under Article 227 of the Constitution.

ORDER

The writ petition is allowed. The judgment and order dated 24.08.2021 passed by the learned District Judge, Almora in Rent Control Appeal No. 04 of 2020 is set aside. The judgment and order dated 18.02.2020 passed by the Prescribed Authority, Almora is restored.

Respondent-tenant shall vacate the shop in question within the period granted by the Prescribed Authority, failing which the Petitioner-landlord shall be entitled to execute the order in accordance with law.