
(2000) 05 AHC CK 0084

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 4246 of 1981

Munishwar Chandra Gauri

APPELLANT

Vs

District Judge, Ghaziabad and Others

RESPONDENT

Date of Decision : 17-05-2000

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 18

Citation : (2000) 05 AHC CK 0084

Hon'ble Judges : A.K.Yog, J

Final Decision : Allowed

Judgement

A.K. Yog, J.—List has been revised.

There is an application for impleadment supported by an affidavit (title of which has been corrected today under permission granted by this Court). No counteraffidavit has been filed as yet.

2. Jas Karan Singh, applicant contends that he has purchased the property from the Petitioner vide saledeed dated 5th January, 2000 (Annexure S.A. 3) and got physical possession of the premises in question.

Impleadment application allowed, Jas Karan Singh may be impleaded as Petitioner No. 2 today itself.

3. Having heard learned Counsel for the petitioners and perused the record, I find that one Dr. Kashi Ram was a tenant of upper portion of House No. 166, Railway Road, Bazaria, Ghaziabad. On his death Petitioner Munishwar Chandra Gauri became tenant of the above accommodation. Petitioner applied for mutation of his name and allotment order being passed. Petitioner moved an application for transfer of tenancy in his name before the Rent Control and Eviction Officer, Ghaziabad. Respondent Nos. 3 to 6 also moved application for allotment alleging that there was deemed vacancy under Section 13, U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, U.P. Act No. XIII of

1972 (for short called "the Act").

4. The Rent Control and Eviction Officer called for report of the Rent Control Inspector and notified the vacancy on 17th August, 1979. Objections were filed by the Rent Control Inspector's report and consequently concerned authority directed the Rent Control Inspector to inspect premises again, who submitted his fresh report dated 5th September, 1979. Notices were issued to the concerned parties. The Rent Control Inspector found that premises in dispute was not vacant on the ground that the tenancy and automatically devolved upon the Petitioner applications for allotment were rejected vide order dated 2 November, 1979 (Annexure 2 to the Writ Petition).

5. Feeling aggrieved prospective allottees filed revision before District Judge, who allowed the revision vide impugned judgment and order dated 26th February, 1981; the case was remanded and the Delegated Authority was required to decide the matter afresh.

6. Now, the tenant (present Petitioner) being aggrieved filed present petition in the year 1981, which is pending ever since then. During the pendency of this petition Munishwar Chandra Gauri purchased the property in dispute on 19th April, 1982. The said Munishwar Chandra Gauri has sold the premises in question to Jas Karan Singh, newly added Petitioner No. 2, vide sale deed dated 5 January, 2000 (Annexure S.A. 3 to the affidavit filed in support of the impleadment application.).

7. The learned Counsel for the petitioners submitted that no revision lay under Section 18 of the Act against an order refusing to declare vacancy. It is submitted that Revision No. 77 of 1980 was not maintainable and hence the impugned judgment and order dated 26th February, 1981 (Annexure 3 to the Writ petition) is without jurisdiction and hence nullity.

8. Reliance has been placed upon decision in the case of Ganpat Rat v. The Additional District Magistrate and others, 1985(11) ALR 423 (SC). I find no reason to take a different view.

9. Apart from the above, it may be stated that apparently no useful purpose is going to be served by requiring Respondent No. 2 to decide the matter on remand inasmuch as the issue raised by the prospective allottees has become stale and lost efficacy by lapse of time, particularly when Petitioner No. 2 has purchased the property and became landlord/owner of the property.

10. In view of the above, order dated 26th February, 1982 passed by District Judge, Ghaziabad in Rent Civil Revision No. 77 of 1980 Naresh Kumar v. Munishwar Chandra Gauri and others, is set aside. Writ Petition stands allowed.

There will be no order as to costs.