
(1972) 11 AHC CK 0025

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 4317 of 1970

Pitamber Lal Gupta

APPELLANT

Vs

District Magistrate Etawah and others

RESPONDENT

Date of Decision : 28-11-1972

Acts Referred:

Citation : (1973) 43 AWR 52

Hon'ble Judges : R.L. Gulati, J

Bench : Single Bench

Advocate : P.K. Misra, for the Appellant;

Final Decision : Allowed

Judgement

R.L. Gulati, J.—This is a petition Under Article 226 of the Constitution.

2. The Petitioner owns a house in Civil Lines, Etawah. In the year 1951, he let Out a portion of the house to a tenant and retained the other portion for his own use and occupation. The fourth Respondent, H.S. Pipal, the District Employment Officer, is the tenant at the moment. The Petitioner has stated that he has prematurely retired from Government service as he suffered a heart attack and wants to settle down in Etawah with his family and as such, needs the entire accommodation for his own use and occupation. He further stated that on 28-4-1970 he sent an application to the Rent Control and Eviction Officer, requesting him to consult the Petitioner Under Rule 7 of the U.P. (Temporary) Control of Rent and Eviction Act before passing any allotment order in respect of the portion, which has, been let out. A similar application was made to the District Magistrate Etawah. Thereafter, the Petitioner again sent an application on 28-9-1970 to the Rent Control and Eviction Officer, Etawah stating that the portion of the house, which has been in the occupation of the present tenant was urgently required by him for his personal use and he, therefore, requested that the said portion as and when it fell vacant should be allowed to be occupied by him. The Petitioner goes on to allege that the Rent Control and Eviction Officer

passed in allotment order dated July 17, 1970 allotting the accommodation in question to the third Respondent, Sri Mullayam Singh Yadav, M.L.C. A similar allotment order was passed for the Second time in favour of Shri Mullayam Singh Yadav on 21st July, 1970. The grievance of the Petitioner is that this allotment order has been passed without consulting him and without disposing of his application for release of the accommodation in his favour. There is no counter-affidavit filed by any of the Respondents. The allegations of the Petitioner have, therefore, to be accepted.

3. The requirements of Rule 7 are mandatory. This rule provides that a landlord, who is in occupation of a portion of a house, must be consulted before other portion is allotted to a tenant. Moreover, if a landlord makes an application for release of the accommodation for his personal use, that application has also to be disposed of before an order of allotment is made. The Rent Control and Eviction Officer has not kept in view the relevant provisions of law and the allotment orders issued by him in favour of Shri Mullayam Singh Yadav, are clearly illegal.

4. The petition is allowed. The two allotment orders, one dated 17th July 1970 and the other dated 31st July, 1970 are quashed. As no one has appeared to contest the writ petition, there will be no order as to costs.