

(1987) 05 AHC CK 0078

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 8575 of 1987

Pratap Bhana Singh

APPELLANT

Vs

Prescribed Authority VI Additional Civil Judge and Others

RESPONDENT

Date of Decision : 04-05-1987

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 12, 21

Citation : (1987) 05 AHC CK 0078

Hon'ble Judges : R.S. Dhavan, J

Bench : Single Bench

Advocate : R.K. Saxena, for the Appellant;

Final Decision : Dismissed

Judgement

R.S. Dhavan, J.—There is an accommodation in Kanpur at 128/5, Block " C " Kidwai Nagar. In this accommodation resides Pratap Bhanu Singh the Petitioner before this Court. In 1981 he was transferred to Kanauj to serve at the office of the Bhumi Vikas Bank. He shifted his family to Kanauj also. This fact is not in issue. A recital of this fact is also on record in paragraph 22 of the release application of the landlord filed u/s 21 of the U.P. Act No. XIII of 1972.

2. The moment Petitioner was transferred to join his service with the Bhumi Vikas Bhawan at Kanauj in I 981, in the premises which he occupied, a deemed vacancy was occasioned u/s 12(1)(3A) of the Act, aforesaid. Another fact which is not in issue is, that the Petitioner is such a person to whom Sub-section (3A) applies.

3. Upon the transfer of Pratap Bhanu Singh to Kanauj, bis brother Ramesh Singh entered the premises. He claims that he became a tenant of the landlord. There is no allotment order in his favour. When the release application had! been filed before the Prescribed Authority by the landlord, Pratap Bhanu Singti would not answer the release application by a written statement but confronted the Court

with preliminary objections, being amongst others, that his brother Ramesh Singh has been residing in the accommodation with the permission of the landlord.

4. The Prescribed Authority, under the Act, aforesaid, who was hearing the release application of the landlord insisted that a written statement be filed by Pratap Bhanu Singh. The Prescribed Authority observed that in case the written statement was not forthcoming, the release application of the landlord would be considered on merits and exparte.

5. This Court does not see any reason to interfere in the proceedings which are pending before the Prescribed Authority. In fact the Prescribed Authority will expeditiously take into account the facts and circumstances, and apply his mind to Sub-section (3A) aforesaid.

6. Thereafter, the Prescribed Authority may proceed to consider the release application moved by the landlord in accordance with law, by also bearing in mind the circumstance that the transfer of Pratap Bhanu Singh to Kanauj, is not a fact in issue and has been accepted as such even before this Court.

7. With these observations the writ petition is dismissed.

8. A copy of this order will be sent by the Registrar of this Court to the Prescribed Authority/VI Additional Civil Judge, Kanpur in Rent Case No. 10 of 1986 ; Ram Asrey v. Pratap Bhanu Singh.

9. A certified copy of this order may be delivered to the learned Counsel for the Petitioner during the week on payment of usual charges.