
(2001) 04 AHC CK 0061

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 16405 of 2001

Praveen Chandra Parikh

APPELLANT

Vs

XIV Addl. District Judge, Agra & Ors.

RESPONDENT

Date of Decision : 30-04-2001

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21(1)(a)

Citation : (2001) 04 AHC CK 0061

Hon'ble Judges : B.K.Rathi, J

Final Decision : Disposed Of

Judgement

B.K. Rathi, J.—The petitioner is tenant of House No. 42/14A, Billockpura, Agra. The respondent No. 3 being landlord moved an application under Section 21(1) (a) of U.P. Act No. XIII of 1972 for its release which was allowed on 18th April, 1998. The petitioner preferred Rent Appeal No. 27 of 1998 which was also dismissed by order dated 18th April, 2001. From the perusal of the orders, it is clear that there is concurrent findings of both the Courts that the need of the landlord respondent No. 3 is bona fide and that the hardship also titled in his favour. Aggrieved by the orders, the petitioner has approached this Court for invoking jurisdiction under Article 226 of the Constitution of India for quashing the orders of release.

2. I have heard Sri B.D. Mandhyan, learned Counsel for the petitioner and Sri Y.K. Saxena, learned Counsel for the respondents.

The concurrent finding of the Courts below regarding genuine need and hardship cannot be disturbed by this Court in exercise of powers under Article. 226 of the Constitution of India as has been laid down in the various cases of this Court as well as of the Apex Court, namely, Kamla Sarinv. Shyam Lal and others, 1984(2) ARC 344; Munni Lal and another v. Prescribed Authority and another, AIR 1978 SC 29; 1981 ARC 470; Natthu Lal v. Radhey; AIR 1974 SC 1696; Babhutmal Raichand v. Laxmibai; AIR 1975 SC 1296; Smt. Labhkumar Bhagwani Shah v.

Janardan Mahadeo KalanAIR 1983 SC 534; Ram Rakesh Pal and anotherv. Ist Additional District Judge ad others1967 UPRCC 342; Jagan Prasadv. District Judge and another,1976 UPRCC 376. Laxmi Narainv. IInd Additional District Judge and another,1977 UPRCC 230; Smt. Nirmala Tandonv. Xth Additional District Judge, Kanpur Nagar,1997 (29) ALR 12 (Sum.):1996(2) ARC 409, and in the case of Kamleshwar Prasadv. Praduman Ju Agarwal,1997 (30) ALR 307 (SC).

3. Faced with this difficulty, learned Counsel for the petitioner has contended that time may be granted to the petitioner to vacate the premises. It is contended that he is an old tenant and living in the house since long and that some time is required to search out the appropriate accommodation.

4. With a view to balance the rights of the parties and to mitigate the hardship which occasions due to the shifting by an order of release, I feel that it would be just and proper to allow reasonable time to vacate the premises to the petitioner. Accordingly, the petitioner is allowed one year's time to vacate the premises and the order of release shall be kept in abeyance and shall not be executed for one year provided the petitioner fulfils the following two conditions:

(i) He deposits in advance the amount of rent for one year before the Prescribed Authority within one month from today.

(ii) He files and undertaking on affidavit within one month from today before the Prescribed Authority that he shall hand over vacant possession in a peaceful manner to the landlord respondents on the expiry of the one year from today.

5. In case of the failure of the petitioner to abide by any one of the above two conditions within the time specified, the release order may be executed.

The petition is finally disposed of with the above directions.