

(2009) 04 AHC CK 0279
In the Allahabad High Court

Prem Chand Chaturvedi and Another	Vs	APPELLANT
State of U.P.and Others		RESPONDENT

Date of Decision : 02-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0279

Hon'ble Judges : V.K.Shukla, J

Final Decision : Dismissed

Judgement

V.K. Shukla, J.

In the bunch of the writ petitions, petitioners are questioning the validity of the recovery towards enhanced rent from the petitioners as per order dated 26.8.2008.

Brief background of the case is that petitioners of Civil Misc. Writ Petition No. 16168 of 2009 has Shop No. C40 allotted in the name of the firm in the year 1996. Petitioners have contended in the agreement, which had been entered interse parties i.e. in between petitioners" firm and Secretary, Krishi Utpadan Mandi Samiti, Saharanpur, there was no such stipulation that after every there years there would enhancement of rent. Petitioners have contended that second agreement, was entered interse petitioners and Rajya Krishi Utpadan Mandi Parishad, Uttar Pradesh on 25.2.2003, and as per Clause8, after every three years rent in question could have been enhanced upto 10% and said lease deed was to be registered and as said lease deed has not been registered, as such petitioners are not at all entitled to make payment of enhanced rent. Notice was given to petitioner for depositing of enhanced rent on 21.5.2008, and to the said notice, objection had been filed on 28.5.2008. Thereafter, order has been passed taking the view that petitioners are liable to pay enhanced rent after expiry of period of three years, failing which said amount would be realized as arrears of land revenue. Against the said order, revision has been filed and same has also been dismissed on 19.1.2005. At this juncture present writ petition has been filed.

Sri Madhusudan Dikshit, Advocate, learned counsel for the petitioners advance argument by contending that plea raised in the present Writ Petition No. 18186 of 2007 will also cover the plea of Civil Misc. Writ Petition No. 16192 of 2009 and Civil Misc. Writ Petition No. 16193 of 2009, and as such present writ petition be treated as leading writ petition, and precise contention of petitioners is that in the agreement of the year 1996, there was no agreement regarding increase of rent at the rate of 10% after every three years, as such said increase could not have been affected upon and coupled with this as pursuant to second agreement, registration had not been done, as such said increase is unsustainable and as such writ petition deserves to be allowed.

Countering the said submission, Sri Kripa Shankar Singh, Advocate representing Rajya Krishi Utpadan Mandi Parishad, Uttar Pradesh on the other hand contended that in the present case, shop in question was let out in the year 1996 and petitioners was well aware of the fact that after every three years there would be increased of 10% in the prevailing rent and for the said purpose petitioners and other similarly situated incumbent had been called, but they deliberately and willfully avoided the agreement and ultimately agreement was entered on 25.2.2003, and thereafter after expiry of the period of three years as per Circular of Krishi Utpadan Mandi Parishad, Uttar Pradesh dated 3.3.1994, the rate of rent was to be enhanced by 10% and as such action taken, cannot be faulted, as such writ petition as it has been framed and drawn is liable to be dismissed.

After respective arguments have been advanced, factual position, which is emerging in the present case is that petitioners claim that they were allotted shop in question in the year 1996, copy of the agreement has been filed as Annexure 8 to the writ petition. As per the said agreement itself, Condition No. 13, clearly provides therein that second party would abide by the provision of U.P. Krishi Utpadan Mandi Adhiniyam, 1964, as amended in the year 1965 and its byelaw and all necessary circular and directives. Thus petitioner had clearly undertaken to abide by the terms and conditions of the circular issued. Revisional Authority clearly proceeded to mention that there has been circular of the Head Office dated 3.3.1994 which clearly provided that qua every shop of Krishi Utpadan Mandi Parishad, Uttar Pradesh, which has been allotted, after expiry of the period of three years, there would be ipso facto enhancement of rent at the rate of 10% and tenant would be bound to deposit the same. Coupled with this circular has been issued on 21.7.1994 and said circular dealt with those category of shops, which were allotted three years earlier to 1.7.1994 and had been given possession and clear cut mention was made that qua the said shop enhancement in rent be made at the rate of 10% and recovery be made. These Circular of the Head office clearly substantiates the fact that clear cut policy decision had been taken that in respect of shop, which had been allotted after every three years, there would be enhancement of rent at the rate of 10%. In the present case admitted position is that petitioners had taken shop on rent in the year 1996. After expiry of the period of three years, on 4.6.1999 petitioners and other similarly situated incumbent had been asked to come forward for further

agreement and it was mentioned therein that failing to not comply with the said directive renewal proceeding will not be undertaken. Admitted position is that petitioners had not undertaken any exercise pursuant to letter dated 4.6.1999 and are contending that renewal could have been withheld, but they cannot be held liable on monetary front. Claim of the petitioners in the present case cannot be accepted, inasmuch as, there was already circular holding the field that after every three years, there would be increase of rent at the rate of 10% and petitioners have clearly undertaken while entering into agreement that they would abide by Circular of Krishi Utpadan Mandi Parishad, Uttar Pradesh and as such petitioners cannot say that said Circular dated 3.3.1994 was not at all binding on them, unless and until it formed part of the agreement.

Admitted position is that there was Circular dated 3.3.1994 which clearly mentioned increase of rent after three years and coupled with this in the second agreement dated 25.2.2003, petitioners had accepted the aforementioned terms and condition and same formed part of the agreement. Once this is factual scenario that there was circular of Krishi Utpadan Mandi Parishad, Uttar Pradesh , which clearly provided for 10% increase in rent and petitioners had undertaken in the agreement that they would abide by circulars of Krishi Utpadan Mandi Parishad, Uttar Pradesh, then petitioners cannot escape from the clutches of circular of Krishi Utpadan Mandi Parishad, Uttar Pradesh. Consequently, view which has been taken by the authority concerned asking for enhancement of rent after expiry of the period of three years, cannot be said to be arbitrary or unreasonable view from any point of view.

Consequently, all these three writ petitions, which are more or less similar for the same set of fact are dismissed.