

(2000) 01 AHC CK 0079

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 33069 of 1999

Prem Kumar and Another

APPELLANT

Vs

Prescribed Authority, Meerut and Another

RESPONDENT

Date of Decision : 12-01-2000

Acts Referred:

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

Citation : (2000) 01 AHC CK 0079

Hon'ble Judges : S.N.Agarwal, J

Final Decision : Allowed

Judgement

Sudhir Narain, J.—This writ petition is directed against the order dated 17/1/1999 passed by the Prescribed Authority rejecting the application filed by the petitioners for amendment of their written statement.

2. Briefly stated the facts are that respondent No. 2 filed an application under Section 21 (1)(a) of U.P. Act No. 13 of 1972 alleging that the petitioners were tenant of the shop in question. He requires it bona fide for his personal need. The petitioners filed written statement. They admitted that they were tenants of the disputed premises.

3. The petitioners filed an application for amendment of the written statement. In the written statement they stated that as the premises in question was let out after 15th July, 1972 in violation of the provisions of U.P. Act No. 13 of 1972, the landlord respondent was not entitled to induct the petitioners as tenant. This application has been rejected by the Prescribed Authority by the impugned order.

4. I have heard learned counsel for the parties.

Learned counsel for the petitioners, Sri Rajesh Tandon, contended that the Prescribed Authority has expressed the view in relation to the merit of the case without permitting the amendment to be made. The case has yet not been decided by the Prescribed Authority. The plea taken by the amendment

application can be taken into account by the Prescribed Authority. In *Brij Nandan Sahai Hajela v. 11 Ird Additional District Judge, Saharanpur and others*, 1996(27) ALR 35 (Sum.) : 1996(1) ARC 165, it has been held that even if no allotment order is passed the application under Section 21(l)(a) is still maintainable. Secondly as to what is the effect of not being passed an allotment order can be also examined in any proceeding which may take place under Section 12 read with Section 16 of the Act.

5. In view of the above the writ petition is allowed subject to the observation made above and the order of the Prescribed Authority dated 17/1/1999 is hereby quashed.

The parties shall bear their own costs.