

(2012) 05 AHC CK 0325
In the Allahabad High Court
Case No : Writ A. No. 23222 of 2012

Public Carriers Owners Association Nadrai Gate	APPELLANT
Vs	
Satya Prakash and Others	RESPONDENT

Date of Decision : 11-05-2012

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21, 21(1)(a), 22

Citation : (2012) 2 RCR(Rent) 438 : (2012) 2 RCR(Rent) 438

Hon'ble Judges : Shashi Kant Gupta, J

Bench : Single Bench

Advocate : Arjun Singh, Solanki and Sanjay Kaushik, for the Appellant; V.D. Agrawal, for the Respondent

Final Decision : Dismissed

Judgement

Shashi Kant Gupta, J.—An application u/s 21 of U.P. Act No. 13 (in short "Act") was filed by the respondents for the release of the disputed premises on the ground of bonafide and genuine need. The Prescribed Authority after considering the material on record allowed the said application filed u/s 21 of the Act by order dated 23.7.2010. Thereafter the petitioner filed an appeal u/s 22 of the Act which was registered as Rent Control Appeal No. 01 of 2011 and the same has been dismissed by order dated 12.3.2012. Hence the present writ petition. Heard the learned counsel for the petitioner and perused the record.

2. The application u/s 21(1)(a) of the Act was filed by the Respondent No. 1 stating therein that after his retirement from service, he does not have any source of income. Therefore, he wants to start his independent business from the disputed premises under the tenancy of the petitioner. Petitioner is an Association of Public Carrier Owners running its office from the disputed premises. The petitioner contested the matter and filed a written statement and stated that the respondent No. 1 does not have any bonafide need and he owns

various properties in the township of Kashganj as well as in Indore (M.P.). It was also stated therein that the Respondent No. 1 is carrying on business in Indore at a large scale but the petitioner has not been able to file any cogent and convincing evidence before the court below to establish that the Respondent No. 1 is already carrying on any separate independent business or he owns various properties in the aforementioned places.

3. A perusal of the record shows that the both the courts below after perusing the pleadings and evidence on record held that the need of the landlord is bonafide and genuine, and the comparative hardship also tilts in favour of the landlord. The courts below have also recorded a finding of fact that the activities carried out by the petitioner from the disputed premises is not of such nature that it will suffer great hardship in case if it is shifted from the premises in dispute to any other suitable place. The courts below have categorically recorded the findings that the Respondent No. 1 does not have any other premises from where he can run his own independent business and in case, disputed premises is not released he will suffer greater hardship than that of the petitioner.

Both the courts below have recorded the findings of fact holding the need of the Respondent No. 1 to be bonafide and genuine and the said findings are based on the evidence available on record. Both the courts below have given cogent, convincing and satisfactory reason while passing the order in favour of the landlord. The finding recorded by the courts below are neither perverse nor based on any extraneous or irrelevant material. The courts below have on meticulous evaluation of evidence and material available on the record, found the need of the petitioner to be bonafide and genuine. This court under Article 226 of the Constitution of India can not substitute its own opinion to the opinion of the courts below unless it is found that the conclusion drawn by the lower court is erroneous being contrary to the mandatory provisions of law.

4. No other point has been pressed by the learned counsel for the petitioner.

5. I do not find any illegality or infirmity in the impugned orders. In the result this petition is dismissed.

6. As urged by the learned counsel for the petitioner, six months" time is granted to the petitioner to vacate the premises in dispute provided the petitioner gives its undertaking in the form of an affidavit before the prescribed authority within one month from today specifically stating therein that it will handover the peaceful possession of the said accommodation to the landlord Respondent No. 1 without inducting any third person within a period of six months from today and will pay the entire arrears of rent including the current rent payable upto the date of delivery of the possession as indicated herein above. In the event of default of any of the aforesaid conditions, the landlord will be at liberty to proceed to evict the petitioner in accordance with law.