
(2012) 01 AHC CK 0441

In the Allahabad High Court

Case No : Miscellaneous Bench No. 12485 of 2011

Pushpa Vijpayee

APPELLANT

Vs

Nagar Ayukt, Nagar Nigam, Lucknow and others

RESPONDENT

Date of Decision : 31-01-2012

Acts Referred:

Uttar Pradesh Municipal Corporation Act, 1959 — Section 331
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21(1)(b), 28

Citation : (2012) 01 AHC CK 0441

Hon'ble Judges : D.P.Singh, J and Anil Kumar, J

Final Decision : Disposed Of

Judgement

Anil Kumar, J.—Sri Namit Sharma appeared for the Nagar Nigam, Lucknow. Heard Sri Vivek Raj Singh learned counsel for the opposite party No.4.

2.According to petitioner's counsel, a Suit under Section 21 (1) and (b) of Rent Control Act along with an application under Section 28, with regard to dispute between the landlord and the tenant, is pending before the Prescribed Authority. Whether the building is dilapidated or not, is a subject matter which can be looked into by the Prescribed Authority while adjudicating the controversy on the basis of evidence laid by the parties in accordance with provisions of Rule 17 of the Rules.

3.Since in the proceeding of Rent Control Act, parties will have got opportunity to lead evidence, in such a situation, it will not be fair on the part of Nagar Nigam, Lucknow, to proceed at its end by serving a notice for demolition of premises in question.

4.Sri Naim Sharma submits that notice has been issued under Section 331 of Municipal Corporation Act, directing the tenant/owner to repair the premises in question. However, the petitioner is apprehensive of bona fide act of Nagar Nigam, Lucknow. The controversy involves disputed question of fact.

5.Keeping in view the pendency of Suit under Section 21 (1) (b) read with Section 28 of Rent Control Act, we leave the question open to be adjudicated by the Prescribed Authority concerned in accordance with law after providing reasonable opportunity to parties. In the meantime, no steps shall be taken by the Nagar Nigam, Lucknow, for demolition of building except to make necessary repairing of building if required under law at the cost of the tenant/landlord. The Prescribed Authority shall proceed with the suit to its logical end and decide the controversy expeditiously within six months from the date of receipt of a certified copy of this order.

6.The Prescribed Authority shall decide the controversy independently without being influenced by the interim order or the present order of this Court.

7.The writ petition is finally disposed of.