
(1968) 05 AHC CK 0013
In the Allahabad High Court
Case No : Sp. Appeal No. 397 of 1962

Rajendra Prasad and another	Vs	APPELLANT
The Rent Control and Eviction Officer, Meerut and another		RESPONDENT

Date of Decision : 03-05-1968

Acts Referred:

Citation : (1968) 38 AWR 443

Hon'ble Judges : W. Broome, J;Gyanendra Kumar, J

Bench : Division Bench

Advocate : S.S. Bhatnagars, for the Appellant;

Final Decision : Allowed

Judgement

Gyanendra Kumar, J.—This is an appeal against the judgment of A.P. Srivastava, J. dated 3-1-1962. The Appellants are landlords of a three-storeyed building situated in Subhash Bazar, Meerut. The third storey was in occupation of the Appellants, whereas the ground floor as well as the first and second floors were in the tenancy of M/s. Khemka Brothers paper merchants. The tenant intended to vacate the accommodation, hence on 8-9-1960 the Appellants applied to the Rent Control and Eviction Officer, Meerut for release of the remaining premises in their favour Under Rule 6, as they required the same for running their own business. Two other persons also applied for the allotment of the accommodation, one of them being M/s. Gopal Trading Company. By his order dated 6-11-1961, the Rent Control and Eviction Officer, Meerut allotted the accommodation to M/s. Gopal Trading Company, which is the second Respondent to this appeal. A copy of the allotment order was duly sent to the Appellants; for compliance.

2. The Appellants challenged the allotment order dated 6-11-1961 by filing a writ petition in this Court which was dismissed by A.P. Srivastava, J. on 3-1-1962; hence this appeal.

3. The grievance of the Appellants is that the order of allotment was passed by

the Rent Control and Eviction Officer without considering their application for release. The ground upon which the learned single judge dismissed the writ petition was that according to the then prevailing view of law, an order of allotment of accommodation under the Rent Control and Eviction Act was purely an administrative order; hence the Rent Control and Eviction Officer was not bound to pass a speaking order on each application. It was further held that from the order of allotment passed in favour of the second Respondent, it was clear that the Rent Control and Eviction Officer had rejected the application for release made by the Appellants.

4. The legal position has since considerably changed. It has been repeatedly held by this Court that an order of allotment and/or release is at least a quasi-judicial order. It has to be a speaking order, open to be questioned in the Writ Jurisdiction of this Court. In *Smt. Ira Mitra v. A.K. Mandhyan* 1968 AWR 236 it was held by this Bench that a Rent Control and Eviction Officer has jurisdiction to entertain a release application even in the proceedings taken against the landlord u/s 7-A of the Rent Control and Eviction Act, "inspite of the earlier order of "allotment" that had been passed by him in favour of the would be tenant." The landlords, who are already in possession of a portion of the building, are certainly entitled to have their release application duly considered by the Rent Control and Eviction Officer and it cannot be deemed to have been rejected merely because an order of allotment has already been passed in favour of a prospective tenant.

5. In the result, we allow the appeal and set aside the order of the learned Single Judge dated 3-1-1962, but make no direction as to costs. The order of allotment passed by the Rent Control and Eviction Officer, Meerut dated 6-11-1961 is hereby quashed. The Rent Control and Eviction Officer shall now consider on merits the application for release filed by the Appellants as also the application for allotment filed by Respondent No. 2 and any other prospective tenant and pass suitable orders in accordance with law.