
(2000) 08 AHC CK 0062

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 37398 of 2000

Sardar Charan Singh and Another

APPELLANT

Vs

Prescribed Authority, Jhansi and Another

RESPONDENT

Date of Decision : 24-08-2000

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21(1)(a), 34

Citation : (2000) 08 AHC CK 0062

Hon'ble Judges : R.H.Zaidi, J

Final Decision : Dismissed

Judgement

R.H. Zaidi, J.—Heard learned Counsel for the petitioner.

By means of this petition filed under Article 226 of the Constitution of India petitioners challenging the validity of the order dated 2652000 whereby application filed by the petitioner to call the expert whose report has been filed by the respondent No. 2 in support of his case or crossexamination has been rejected by the respondent No. 1.

2. It appears that the respondent No. 2 filed an application under Section 21 (1) (a) of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (U.P. Act No. XIII of 1972), for short the Act, seeking release of the shop in dispute which was in occupation of the petitioners. Petitioners on receipt of the notice from the Court of the Prescribed Authority, filed their written statement denying the claim of respondent No. 2 and asserting that his need for the shop in dispute was neither genuine nor bona fide. Plea of comparatively more hardship was also taken. In support of their cases, parties produced evidence, oral and documentary, including reports of experts.

3. It was claimed that there were conflicting reports of experts, therefore, the crossexamination of the expert, who filed the report and affidavit in support of the said report, was necessary. The respondent No. 1 after hearing parties and

examining the material on record, came to the conclusion that it was not necessary, under the facts and circumstances of the case, to call the expert whose report and affidavit have been filed by the respondent No. 2 for crossexamination. It has been observed that on the basis of the material on record, the case could be decided without any difficulty. It is not doubt correct the District Magistrate, the Prescribed Authority or any Appellate or Revising Authority, as provided under Section 34 of the Act, for the purposes of holding any enquiry or hearing any appeal or revision under the Act, have got same powers as are vested in the Civil Courts under the Code of Civil Procedure when trying a suit in the matter of summoning and enforcing the attendance of any person and examining him on oath but the same power is discretionary. The Prescribed Authority, as stated above, clearly held that under the facts and circumstances of the present case, it was not necessary to call the expert whose report has been filed by the respondent No. 2, for crossexamination. The Prescribed, Authority, in my opinion, did not commit any error or law and jurisdiction in dismissing the application. No case for interference under Article 226 of the Constitution of India is made out.

4. The writ petition fails and is dismissed in limine. Petition dismissed.