
(1978) 09 AHC CK 0062
In the Allahabad High Court
Case No : Civil Misc. Writ No. 5 of 1976

Shiam Babu

APPELLANT

Vs

The VI Addl. Distt. and Sessions Judge and Others

RESPONDENT

Date of Decision : 19-09-1978

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21(1)
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Rules, 1972
— Rule 16(2)

Citation : (1978) AWC 812

Hon'ble Judges : K.C. Agrawal, J

Bench : Single Bench

Advocate : R.P. Goel, for the Appellant; V.K. Khanna, for the Respondent

Final Decision : Allowed

Judgement

K.C. Agrawal, J.—This Writ petition is directed against a judgment of the Sixth Additional District and Sessions Judge, Meerut, dated 23-12-1975, allowing an appeal filed by Respondent 3, who was the landlord and owner of the shop in dispute.

2. An application u/s 21(1)(a) of U.P. Act XIII of 1972 was filed by Respondent 3 for eviction of the Petitioner from shop No, 746, Begam Bagh, Meerut. The landlord alleged that he required the shop for his own use and occupation. The application was resisted by the Petitioner. He alleged that the need of the landlord was not bona fide, and that the landlord did not require the premises in dispute for the purposes of starting any business. He claimed that the application was filed with an oblique motive for the designed purpose of evicting the Petitioner. It was also claimed by the tenant that he was likely to suffer greater hardship.

3. The Prescribed Authority although held that the need of the landlord was genuine, but since he was of the view that the tenant was likely to suffer greater

hardship, he rejected the application. Against the said order, an appeal was taken by Respondent 3 to the appellate authority. The appellate authority agreed with the finding of the Prescribed Authority and held that the need of the landlord was genuine. But, while deciding the question of comparative hardship, he held that as the tenant would be paid compensation for vacating the premises he was not likely to suffer any hardship. As a consequence thereof, he found that the application of the landlord was liable to be allowed. Aggrieved, the Petitioner has filed the present writ petition.

4. After hearing Counsel for the parties, I am satisfied that the impugned judgment of the learned Additional District Judge is erroneous and suffers from a manifest error of law. Proviso (2) to Sub-section (1) of Section 21 of U.P. Act XIII of 1972 provides for the payment of compensation to a tenant if he is evicted from a building which had been taken by him for the purposes of any profession, trade or calling. The compensation, however, was not in lieu of the requirement of comparison of the need. The compensation contemplated by proviso (2) to Section 21(1) was for the purposes of compensating a tenant who was going to be deprived of his occupancy rights. It has no relevancy with the compensation in lieu of comparison of hardship. The question of comparative hardship should have been decided in accordance with Section 21(1)(a) and Rule 16(2) of the Rules framed under the aforesaid Act. That being so, the judgment of the court below is liable to be set aside.

5. In the result, the writ petition succeeds and is allowed. The judgment of the learned Additional District and Sessions Judge, Meerut, dated 23-12-1975 is quashed. The District Judge is directed to decide the appeal of Respondent 3 afresh in the light of the observations made above. No order as to costs.