

(2002) 03 UK CK 0001

In the Uttarakhand High Court

Case No : Writ Petition No. 85 (M/S) of 2002

Smt. Maheshwari Devi

APPELLANT

Vs

Sanatan Dharam Sabha and Others

RESPONDENT

Date of Decision : 15-03-2002

Acts Referred:

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

Citation : (2002) 2 UC 2

Hon'ble Judges : P.C.Verma, J

Bench : Single Bench

Judgement

P.C. Verma, J.—Heard learned counsel for the petitioner as well as Sri V.K. Kohli, learned counsel for the respondent No. 1.

2. The grievance of the learned counsel for the petitioner is that the ex parte order was passed against him which has been affirmed by the appellate court u/s 21(1)(b) of the U. P. Act No. XIII of 1972, despite his application to leave to file the written statement and to lead his defence. Learned counsel for the petitioner submitted that the finding recorded by the trial court as well as the appellate court is not factually correct as the building is not in dilapidated condition. This was only defence to be led by him. This Court thinks it appropriate to examine the defence of the petitioner at this stage. In order to find out as to whether the building is in dilapidated condition or not, it is necessary to appoint an Advocate Commissioner, who shall visit the spot and may submit the report to this Court as to whether the building is in dilapidated condition or not, at the cost of the petitioner.

3. Both the learned counsel for the parties suggested the name of Sri Govind Singh Bisht, learned senior standing counsel, Government of India, for being appointed as Advocate Commissioner. Therefore, Sri Govind Singh Bisht, Advocate is appointed as Advocate Commissioner. The Commission shall be held on Sunday, the 17th March, 2002. The expenses of the Commissioner shall be

borne by the petitioner. He shall be paid a sum of Rs. 10,000 (Rupees ten thousand only) for the service to be rendered by him. The report shall be submitted by 18.3.2002.

4. Put up this case of 12.4.2002, Till then, the petitioner shall not be evicted from the disputed premises.