
(1979) 12 AHC CK 0009
In the Allahabad High Court
Case No : Civil Misc. Writ No. 7482 of 1978

Smt. Mala Singhal

APPELLANT

Vs

VII Addl. District Judge and Others

RESPONDENT

Date of Decision : 17-12-1979

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 10, 3, 8, 8(1), 8(2)

Citation : (1980) AWC 120

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

Bench : Single Bench

Advocate : S.S. Bhatnagar, for the Appellant; N.C. Rajvanshi and S.C., for the Respondent

Final Decision : Dismissed

Judgement

K.C. Agarwal, J.—This writ petition is directed against a judgment of the Additional District Judge, Meerut, dated 2nd May, 1978, dismissing an appeal of the Petitioner filed u/s 10 of U.P. Act XIII of 1972.

2. House No. 400 (New), 283/9 (Old), Begam Bagh, Meerut, was allotted to S. K. Mehra, Respondent 3, vide allotment order dated 21-4-1974. Respondent 3 took possession of the portion of the aforesaid house allotted to him on 6-6-1976. He, thereafter, filed an application u/s 8 of the Act for fixation of standard rent on the ground that since the Petitioner landlord was demanding much higher rent than the standard rent and had not delivered the possession of one-fourth of the allotted accommodation the rent be fixed at Rs. 60/-per month.

3. The application was opposed by the Petitioner on the ground that the house had been assessed to tax at much higher amount than pleaded by the tenant-Respondent and, therefore, the claim of the said Respondent for fixation of rent at Rs. 60/- per month was unjustified. The Petitioner claimed that the previous tenants were paying Rs. 250/-per month for the same accommodation which had been allotted to Respondent 3, besides electricity and water charges. Hence, the

Respondent 3 was liable to pay the same.

4. Before the Prescribed Authority, Respondent 3 filed an extract of the assessment of the year 1961- 62 showing that the house had been assessed at Rs. 80/-per month. The Petitioner also filed evidence in support of her" case that the previous tenants were paying Rs. 250/- per month. Apart from those papers, the Petitioner filed papers of the recent assessments made by the Municipal Board fixing Rs. 450/-as assessment. These papers indicated that the original assessment of the disputed house had been changed from Rs. 80/- to Rs. 450/- per month.

5. The Prescribed Authority allowed the application and fixed the standard rent at Rs. 60/- per month. It held that the claim of the landlady for fixation of rent at Rs. 250/- per month on the basis of the certified copy of the latest assessment could not be accepted as the same had been obtained by the landlady to put the allottee to harassment. In the appeal taken by the landlord, the judgment of the Prescribed Authority was affirmed. The appellate authority held that the tenant was liable to pay rent in accordance with the previous assessment of the year 1961-62. The appellate authority found that the subsequent increase of the assessment had since been manipulated by the landlady, the same could not form the basis for the fixation of standard rent to be payable by the tenant-Respondent. Against the aforesaid judgments, the present writ petition has been filed.

6. At this place, it may be relevant to refer to the definition of the word ""standard rent" given in Section 3(k) of U.P. Act XIII of 1972, which is being quoted below:

* * * *

7. Admittedly, the house was not governed by the old Act. Hence, Clause (i) of Section 3(k) would not apply to the present case. The provision which would apply is Section 3(k)(ii). This clause would apply to cases which are not covered by Clause (i) of Section 3(k) inasmuch as it starts with the phrase in any other case." In this clause, two things have been mentioned. The first is that if there is assessed letting value for the time being in force, the rent would be fixed in accordance with the said assessed value, but if there is no assessed letting value, the rent would be determined u/s 9. Sub-section (1) of Section 9, on its turn, lays down that where there is neither any agreed rent nor any assessment in force, the District Magistrate shall, on an application being made in that behalf, determine the standard rent. It, therefore, appears that if there is any assessment in respect of a house, which was not governed by the old Act, the District Magistrate will not be entitled to determine the standard rent in accordance with Sub-section (1) of Section 9. His power to determine standard rent under the said provision arises only in cases which are covered by Section 9(1). But where, as here, the construction was not governed by the old Act, and there was an assessment in force, the question of determining the rent u/s 9(2)

would not arise. Such a case would be governed by Sub-section (1) of Section 8. Sub-section (1) of Section 8 provides that if there is any dispute with regard to the amount of standard rent, the District Magistrate shall on an application being made on that behalf, by order determine such amount. Under Sub-section (1) of Section 8, the power given to the District Magistrate is to fix the amount of standard rent. The expression "standard rent" has been defined in Section 3(k). On an application, therefore, being filed u/s 8(1), the District Magistrate is called upon to discover or to find out the amount of the standard rent. This, of course, would be the same, which is permitted by the definition given in Section 3(k). In the instant case, since the house had been assessed to tax in 1961-62, the said assessment could form the basis for fixation of standard rent.

8. Counsel for the landlord-Petitioner, however, referred to the definition given in Section 3(k) and pointed out that the expression "for the time being in force" takes within its ambit also the subsequent assessments, hence the authorities below committed an error in determining the rent in accordance with the assessment of the year 1961-62. He pointed out that the assessment of the house at the relevant time was Rs. 450/- per month, and the rent should have, therefore, been fixed in accordance with the same.

9. The words "for the time being in force" are capable of different interpretations according to the context. Sometimes this expression is used with an intention to point out one single period of time, whereas at another place this may not be used to point out to a single period but to a succession of periods. As said by the Supreme Court in *Maharaj Singh Vs. State of Uttar Pradesh and Others*, a word can have many meanings. To find out the exact connotation of a word in a situation, we must look to the context in which it is used. The context would provide the key to the meaning and the sense it should carry. Keeping this principle of interpretation in view, it appears to me that the expression is not intended to point out to a single period. It does not mean an assessment which was already in force at the time when the allotment order was made or the first assessment made just after the construction of the house. It means any assessment whether before or after the allotment of the house. The general sense of the phrase "for the time being" is that of time indefinite and refers to all such acts which will arise in future and which may vary from time to time (See *Eillsion v. Thorns* (1862) ALJ 867).

10. The Petitioner's counsel is, therefore, right in submitting that for the purposes of fixing the standard rent, the assessment of the house which was found to be in existence at the time of making of the order u/s 8 could also be taken into account. The courts below were wrong, in my opinion, in ignoring to take the same into account on the ground that since the said assessment was made after the allotment, the same was not binding.

11. Learned Counsel for the landlord is again not right in submitting that the courts below were wrong in thinking that since the assessment order had been passed behind the back of the tenant, he ceased to be liable to pay rent in

accordance with the assessed letting value of the house. The assessment proceedings are of a nature to which a tenant may not have any notice, but still he may be bound to pay rent in accordance with the same.

12. In the instant case, however, none of the two things would be helpful in creating the liability of rent of the house in accordance with the latest assessment. Apart from the two afore said grounds, the third ground given by the courts below was that the Petitioner- landlord with the malafide intention got the assessment raised, and, as such, the malafide action on the part of the Petitioner could not form the basis for fixation of standard rent. In fact, the Prescribed Authority had even observed that the Petitioner had not filed any certified copy of the latest assessment. On the facts of the present case, therefore, the courts below could not be said to have committed any mistake ignoring to fix the rent of the house in accordance with the subsequent assessment obtained by the landlord with an ulterior motive to force Respondent 3 to leave the house.

13 The submission of the learned Counsel for the Petitioner that since the earlier tenants occupying the house were paying Rs. 250/- per month, therefore, Respondent 3 should also have been held liable to pay the standard rent in the same amount, could not be accepted. u/s 3(k)(ii), standard rent could be fixed in accordance with the assessed letting value for the time being in force and in the absence of assessment, the rent determined u/s 9 of the Act. The question of determination of rent u/s 9 could arise only if there was no assessed letting value. Had there been no assessed letting value, the Prescribed Authority could take note of the agreement entered into between the landlord and the previous tenant in accordance with which the rent was being paid, as a relevant fact under Clause (f) of Section 9(2). But, as there was an assessed letting value, the aforesaid Clause (f) of Sub-section (2) of Section 9 would not apply.

14. That apart, I have already given reasons to hold that Section 9 did not apply to the facts of the present case, and that the fixation of rent had to be done u/s 8(2). The provisions of Section 8(1) are materially different from those of Section 9.

15. Counsel for the landlord, however, pointed out that since under Sub-section (2) of Section 8, a tenant has a right to get the assessment of a house increased in accordance with the rent which is being paid by him, the right of the tenant was confined to get the assessment of the building enhanced to the rent which would have been payable by him. This submission does not advance the case of the landlord. Sub-section (2) of Section 8 is meant for a different purpose entitling a tenant to get the assessment of a building enhanced if the same is found to be lower than the agreed rent payable therefor. But, this does not at all affect the right of the tenant to claim that his liability for fixation of rent in a matter like the present could not be more than paying the standard rent to be fixed in accordance with Section 3(k)(ii) of the Act. Moreover, the counter-affidavit shows that the assessment which had been raised previously had now

been reduced to Rs. 80/- per month.

16. For the reasons give above, the writ petition fails and is dismissed with costs payable by the Petitioner to Respondent No. 3.