
(2002) 04 AHC CK 0036
In the Allahabad High Court
Case No : C.M.W.P. No. 15526 of 2002

State Bank of India and Another	Vs	APPELLANT
Shyam Narain and Others		RESPONDENT

Date of Decision : 18-04-2002

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21(8)

Citation : (2002) 3 AWC 2039

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : Vipin Sinha, for the Appellant; Rajesh Tandon and Rama Goel, S.C.,
for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—This writ petition under Article 226 of the Constitution of India filed by the petitioners was dismissed by me for the reasons to be recorded later on 18.4.2002. Here are the reasons for dismissing the writ petition.

2. The present writ petition has been filed by the petitioners-tenant, which is a public sector bank, against the order of the prescribed authority, the Rent Control and Eviction Officer, Bulandshahr, dated 15.7.1995, Annexure-3 to the writ petition, passed on an application filed by the landlords-respondents u/s 21 (8) of U. P. Act No. XIII of 1972 (here-in-after shall be referred to as the "Act") for the enhancement of the rent. The prescribed authority has allowed the application of the landlords and directed that the rent is enhanced to Rs. 16.253 w.e.f. 1.11.1989. Being aggrieved by this order, the petitioners-tenant preferred an appeal numbered as Rent Control Appeal No. 15 of 1995 before the appellate authority. The appellate authority dismissed the appeal vide its order dated 2.2.2002, Annexure-5 to the writ petition, and maintained the order passed by the Rent Control and Eviction Officer, Bulandshahr.

3. The application dated 20.10.1989, filed by the landlords has been finally

decided by the appellate authority in the month of February, 2002, whereby the appellate authority has maintained the order passed by the Rent Control and Eviction Officer, Bulandshahr. Thus, during the pendency of the appeal, it is in fact the landlords who were restrained from filing a fresh application as contemplated under Section 21 (8) of the Act, as the said Section 21 (8) of the Act entitles the landlords to file a fresh application for the enhancement of the rent after five years of the last enhancement. In this view of the matter, the landlords were in fact entitled to file a fresh application for enhancement of the rent on or after 1.11.1994 and similarly after every five years of the rent enhancement, which the landlords could not have moved because of the pendency of the present appeal. The appellate authority has recorded findings of fact while deciding the appeal filed by the petitioners-tenant, which do not warrant any interference by this Court in exercise of powers under Article 226 of the Constitution of India.

4. In view of what has been stated above, it is not a fit case in which this Court should interfere with the Impugned orders as the equity is against the tenant, who by virtue of the provisions of Section 21 (8) of the Act have granted ambiguity from pressing any application u/s 21 (1) (a) of the Act for the release of the accommodation in question by the landlords and on the other hand because of the pendency of the appeal, the landlords were denied the right to move a fresh application for the enhancement of rent in accordance with the scheme of Section 21 (8) of the Act. In this view of the matter this writ petition deserves to be dismissed.

5. In view of what has been stated above, this writ petition is dismissed. The interim order, if any, stands vacated. However, there will be no order as to costs.