
(2002) 05 AHC CK 0033
In the Allahabad High Court
Case No : C.M.W.P. No. 22310 of 1995

State of U.P. and Another	Vs	APPELLANT
Additional District Judge (VIII), Bareilly and Another		RESPONDENT

Date of Decision : 01-05-2002

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 19 Rule 1
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21(8)

Citation : AIR 2002 All 248 : (2002) 3 AWC 2037

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : R.K. Awasthi and Kripa Shanker Singh, for the Appellant; Pradeep Saxena and Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—Heard Sri R. K. Awasthi, learned Standing Counsel appearing on behalf of the petitioners and Sri Pradeep Saxena, learned counsel for the contesting respondent.

2. The facts leading to the filing of present writ petition are that the landlord filed an application u/s 21 (8) of U.P. Act No. 13 of 1972 (hereinafter shall be referred to as the "Act") with the prayer that the rent of the building in question may be enhanced in accordance with the provisions of Section 21 (8) of the Act. The prescribed authority (Rent Control and Eviction Officer) in order to arrive at the market value of the building in question for the purposes of assessing the enhanced rent has gone through the report of the valuers regarding the market value of the building in question has relied upon the report of the valuer, who has submitted the report for the petitioners and according to the report submitted by the aforesaid valuer, the market value of the building in question comes to Rs. 1,72,722/-. The prescribed authority has refused to rely on the report of the valuer, namely, Shri R. D. Agarwal, retired Chief Engineer and registered

government valuer submitted by the tenant with regard to the market value of the building on the ground that the report of Shri R. D. Agarwal with regard to the market value of the building in question is not supported by an affidavit and arrived at the market value to be as stated Rs. 1,72,722-, which was neither in accordance with the report submitted by the petitioners' valuer, nor based on the report of Shri R. D. Agarwal and fixed the monthly rent at the rate of Rs. 1,439.35 per month vide its order dated 24-1-1994. The landlord as well as the tenant has filed appeals before the appellate authority. The appellate authority modified the order passed by the prescribed authority vide its order dated 30-10-1992 and has relied upon in toto the report of the valuer whose report was filed by the respondent-landlord along with the affidavit of the valuer and fixed the rent at the rate of Rs. 2,402- per month assessing the market value of the building in question to be at Rs. 2,88,238/-. The report of Shri R. D. Agarwal, the valuer of the petitioners-tenant was not relied upon by the appellate authority on the ground that this report of Shri R. D. Agarwal is not supported by any affidavit, whereas the report submitted by the landlord was supported by an affidavit. Learned Standing Counsel Sri R. K. Awasthi has argued that the report of Shri R. D. Agarwal has been rejected solely on the ground that his report was not supported by any affidavit and thus the view taken by the appellate authority is not correct. No other point was argued by the learned Standing Counsel. I have gone through the order passed by the appellate authority. As would be clear from the facts stated above, there were two sets of report with regard to the market value of the building in question one is that of Shri R. D. Agarwal, which was not supported by an affidavit and the other was supported by an affidavit. The appellate authority, in my opinion, relying upon the report, which was supported by an affidavit, has committed no error, much less an error of law so as to warrant interference in exercise of powers under Article 226 of the Constitution of India. In this view of the matter, this writ petition is devoid of any merits and is liable to be dismissed.

3. This writ petition therefore is dismissed. The interim order, if any, stands vacated. However, there will be no order as to costs.