
(1991) 03 AHC CK 0016

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 10380 of 1990

State of U.P. and Another

APPELLANT

Vs

District Judge and Others

RESPONDENT

Date of Decision : 21-03-1991

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 80
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21(1), 21(1), 21(8), 9

Citation : (1991) 1 AWC 672

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

Bench : Single Bench

Advocate : N.B. Tiwari, for the Appellant;

Final Decision : Dismissed

Judgement

S.C. Verma, J.—This petition at the instance of the State of U.P. the Sales-tax Department being the tenant, is directed against the order dated 20-10-1989 passed by the District Judge, Bulandshahr and the order dated 25-4-1989 passed by the Rent Control and Eviction Officer u/s 21(8) of U.P. Act 13 of 1972, herein after referred to as the Act, enhancing the rate of rent of the house bearing No. 883 (Old 416) situate at D.M. Colony Road, Kottuyat, Bulandshahr from Rs. 4139/- per month to Rs. 8357/- per month.

2. In the proceedings initiated by the landlord-Respondents for enhancement of rent, for ascertaining the market value of the disputed house, the tenant filed the report of Sri R.P. Gaur, Chartered Architect and Government Registered Valuer showing the value of the house at Rs. 1028000/-. This report itself was accepted by both the courts and on that basis the rent of the house as calculated in accordance with the provisions of Section 21(8) of the Act has been determined at Rs. 8357/- per month.

3. The learned Standing Counsel did not seriously press the arguments of prior notice u/s 80 Code of Criminal Procedure before filing the present petition u/s

21(8) of the Act as also the delegation of powers by the District Magistrate to the Rent Control and Eviction Officer to adjudicate the proceedings u/s 21(8) of the Act. The main contention of the learned Standing Counsel was that the market value should be assessed in accordance with the Municipal Assessment which was at Rs. 4 lacs only. It was further contended that the rate of rent as assessed u/s 21(8) can not be more than the standard rent as determined u/s 9 of the Act. The argument of the learned Standing Counsel can not be accepted in view of the specific criteria laid down u/s 21(8) of the Act for enhancement of rent to a sum equivalent to 1/12th of 10 per cent of the market value of the building. Section 21(8) of the Act is quoted below.

(8) Nothing in Clause (a) of Sub-section (1) shall apply to a building let out the State Government or to local authority or to a public sector corporation or to a recognised educational institution unless the prescribed authority is satisfied that the landlord is a person to whom Clause (ii) or Clause (iv) of the Explanation to Sub-section (1) is applicable:

Provided that in the case of such a building the District Magistrate may, on the application of the landlord, enhance the monthly rent payable there for to a sum equivalent to one-twelfth of ten percent of the market value of the building under tenancy, and the rent so enhanced shall be payable from the commencement of the month of tenancy following the date of the application:

Provided further that a similar application for further enhancement may be made alter the expiration of a period of five years from the date of the last order of enhancement.

4. The legislature was conscious in framing the provisions of 21(8) of the Act which provides for a criteria quite different from the criteria for determination of standard rent provided u/s 9 of the Act The intention of the legislature to add this special provision appears to be to benefit to the landlord as in the case of a building let out to a local authority or to a public Corporation or to a recognised educational institution, the provisions of Clause (a) of Sub-section (1) of Section 21 of the Act have not been made applicable.

5. The Petitioner can not successfully assail the determination of Market value of the building as the value of the building as determined by its own Valuer has been accepted. The impugned orders determining the Market value and the monthly rent are in accordance with law.

6. The petition is devoid of merit and is accordingly dismissed. There will be no order as to costs.