
(1996) 10 AHC CK 0085

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 10013 of 1994

State of U.P. and Anr.

APPELLANT

Vs

District Judge Jhansi & Anr.

RESPONDENT

Date of Decision : 15-10-1996

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 2(1), 2(1)(a), 21(8), 3(o)

Citation : (1996) 10 AHC CK 0085

Hon'ble Judges : S.R.Singh, J

Final Decision : Dismissed

Judgement

S.R. Singh, J.—Heard Standing Counsel for the State and Sri K.N. Saxena appearing for the respondent landlord.

2. It is not disputed that the building in question is occupied by the petitioners as tenants. The order impugned in the writ petition has been passed under the proviso to Section 21(8) of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972. Learned Standing Counsel urged that nothing contained in the Act would apply to a "public building" and further that the building being in occupation of the State Government shall be deemed to be a "public building" within the meaning of Section 3(o) of the said Act.

3. Submission made by the learned Standing Counsel is devoid of merits. What is exempted under Section 2(1) (a) is a building of which the State Government, or Local Authority, or Public Sector, Corporation or Cantonment Board is the landlord and not to a building of which the State Government may be a tenant. It is evident from subsection (8) of Section 21 of the Act that the landlord of a building in occupation of State Government as its tenant cannot file releases application on ground of bona fide need comprehended by clause (a) of Subsection (1) of Section 21 of the Act, but then such a landlord can apply for enhancement of rent under the proviso to subsection (8) of Section 21. Rent Control and" Eviction Officer exercising power of the District Magistrate has, on

proper self direction to the relevant factors determined the monthly rent payable for the building in question. The order passed by the Rent Control and Eviction Officer has rightly been maintained by the learned District Judge and no interference is warranted under Article 226 of the Constitution.

4. Division Bench decision in *S.C. Mukerji v. State of U.P.* 1995 (1) CRC 56, reliance on which was placed by the learned counsel appearing for the petitioners cannot be pressed into service in as much as a conjoint reading of Sections 2 and 3(o) and of the proviso to Section 21(8) would indicate that what is exempted from the purview of U.P. Act No. 13 of 1972 under clause (a) of Subsection (1) of Section 21 is a building of which the State Government or a local authority or public sector corporation or a Cantonment Board is the landlord. Section 2 has no application to a building of which the State Government, or local authority or a public sector, corporation or a Cantonment Board, as the case may be, is a tenant. Mere fact that the building is a "public building" within the meaning of Section 3(o) is not sufficient to exclude it from the purview of the Act. It is by virtue of subsection (8) of Section 21 that such a building has been taken out of the purview of Section 21 (1) (a) only. But in respect of such a building, the District Magistrate has been conferred with the power to enhance the monthly rent payable therefor to a sum equivalent to onetwelfth of ten percent of the market value of the building under tenancy. The Division Bench decision does not lay down that the District Magistrate has no jurisdiction to enhance the monthly rent of such a building in exercise of power under the proviso to sub section (8) of Section 21 and its observation that nothing contained in the Act shall apply to such a building seems to have been made in ignorance of Section 2 of the Act as it stand amended upto date.

5. For the reasons aforestated the writ petition is dismissed in limine.