
(2000) 09 AHC CK 0094

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 42225 of 2000

Sukamal Chand Jain

APPELLANT

Vs

Addl. District Magistrate, Meerut and Others

RESPONDENT

Date of Decision : 26-09-2000

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 11, 12, 13, 16

Citation : (2000) 09 AHC CK 0094

Hon'ble Judges : R.H.Zaidi, J

Final Decision : Dismissed

Judgement

R.H. Zaidi, J.—By means of this petition filed under Article 226 of the Constitution of India, petitioner prays for issuance of a writ, order or direction in the nature of certiorari quashing the order dated 11/9/2000 whereby an application under Section 21 (I)(b) of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (U.P. Act No. XIII of 1972), for short the Act, was allowed by the Rent Control and Eviction Officer and the order dated 14/9/2000 whereby revision filed by the petitioner against the aforesaid order was dismissed.

It appears that the proceedings under Section 16 read with Section 12(a) of the Act were initiated on an application filed by Ashok Kumar, Respondent No. 4 for allotment of the building in question. The Rent Control and Eviction Officer directed the Rent Control Inspector to make local inspection and submit his report. The Rent Control Inspector made local inspection and thereafter submitted the report against which objections were filed by the petitioner. After hearing the parties and perusing the material on record, building in question was declared vacant by order dated 26/7/2000 by the Respondent No. 1. Challenging the validity of the said order petitioner filed a Writ Petition No. 35598 of 2000. The said writ petition was dismissed by this Court by the judgment and order dated 11/8/2000. In the meanwhile an application under Section 16 (I)(b) was filed by the Respondent No. 3 for release of the building in question in his favour

as the building was required by the said respondent for his personal use. The Respondent No. 1, after perusing the material on record, released the building in question in favour of Respondent No. 3 by the judgment and order dated 1192000. Challenging the validity of the order of release the petitioner filed a revision before the Revisional Authority, the District Judge, Respondent No. 2. The Respondent No. 2 dismissed the revision filed by the petitioner by the judgment and order dated 1492000, hence the present petition.

2. This petition was filed through Mr. Anurag Khanna, Advocate. Since the lawyers are absenting from Courts on account of strike on the call given by the Bar Council of Uttar Pradesh, the petitioner Sri Sukamal Chand Jain appeared in person. On the other hand, Respondent No. 3 Sri Surendra Kumar Jain also appeared in person.

3. I have heard the petitioner and Respondent No. 3 in person. It was urged by the petitioner that the authorities below have acted illegally in releasing the building in question in favour of Respondent No. 3 and in dismissing the revision filed by the petitioner. It was submitted that status of the petitioner in the building in question was of a tenant and not of an unauthorised occupant. The authorities below have acted illegally in holding to the contrary. On the other hand the contesting respondent landlord, submitted that the order declaring the building in question as vacant has become final inasmuch as the writ petition filed by the petitioner against the said order has been dismissed by this Court. The petitioner whose status is nothing but that of an unauthorised occupant or at the best of the prospective allottee, has no right to intervene in these proceedings. The writ petition was therefore, liable to be dismissed.

4. I have considered the submissions made by the petitioner and Respondent No. 3. It is not disputed that the order declaring the building in question as vacant has become final. The status of the petitioner according to the findings recorded by the authorities below is that of an unauthorised occupant inasmuch as he has got no order of allotment in his favour and in view of the provisions of Sections 11 and 13 of the Act, he had no right to occupy the building in question. The writ petition, therefore, has got no merit and is liable to be dismissed.

5. Lastly, the petitioner requested that some reasonable time may be granted to him to vacate the building in question as immediately after dismissal of this petition it would not be possible for him to arrange for an alternative accommodation for his residence. Shri Surendra Kumar Jain, the landlord has got no objection if four months time is granted to the petitioner to vacate the building in question subject to the condition that he furnishes an undertaking in writing before the Respondent No. 1 within a period of 15 days from today to the effect that on expiry of the four months, he shall vacate the building in question and shall hand over vacant possession to him and shall also pay the amount of rent/damages for the period he remains in occupation of the said building at the rate of Rs. 1,200 per month.

6. In view of the aforesaid facts and circumstances, four months time is granted to the petitioner to vacate the building in question subject to the condition that within 15 days from today he shall furnish an undertaking in writing before Respondent No. 1 to the effect that immediately on expiry of four months he shall vacate the building in question and shall deliver vacant possession to the Respondent No. 3 and shall also pay rent/damages, at the rate indicated above.

Subject to what has been stated above, the writ petition fails and is hereby dismissed in limine.