
(2009) 05 AHC CK 0646

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No.17417 of 2005

UCO Bank, Agra-Gwalior Road

APPELLANT

Vs

Bhagwati Prasad and others.

RESPONDENT

Date of Decision : 13-05-2009

Acts Referred:

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

Citation : (2009) 05 AHC CK 0646

Hon'ble Judges : D.P.Singh, J

Final Decision : Dismissed

Judgement

D.P. Singh, J.

Heard counsel for the petitioner and Sri P.K. Ganguly for the contesting respondent.

This petition is directed against orders dated 17.5.2003 and 6.12.2004 by which the rent of the disputed premises has been enhanced.

The petitioner Bank was a tenant of the disputed premises consisting of one strong room, one hall, one lunch room on the ground floor and three bed rooms, a kitchen, a water closet and bath on the first floor of a double storeyed building situated at Sewla Jat on the AgraGwalior Road since 1971. The present respondent purchased the said premises on 6.5.1997 and became its owner and landlord.

In May, 1999, the respondentlandlord made an application under Section 21(8) of U.P. Act No. XIII of 1972 for enhancement of rent from Rs.1600/ to Rs.12,500/ per month claiming the valuation of the premises at Rs.15,00,000/. This was registered as case no. 144 of 1999 before the Rent Control and Eviction Officer, Agra. After exchange of affidavits and after hearing the parties, the Rent Control and Eviction Officer vide judgement and order dated 17.5.2003 assessed the value of the land together with structure at Rs.4,68,735/ and thereby fixed

the rent at Rs.3900/ per month with effect from 1.6.1999.

Aggrieved, the petitioner and landlord both preferred their respective appeals challenging the said order. The appellate court vide its order dated 6.12.2004 dismissed the appeal of the petitionerBank but allowed the appeal of the respondentlandlord enhancing the rent to Rs.6125/ per month.

It is admitted to the parties that the petitionerBank, during the pendency of this writ petition, has vacated the premises and therefore, only the question of payment of rent for the period the Bank was in its occupation remains.

Learned counsel for the petitioner has urged that the respondentlandlord had bought the disputed premises on 6.5.1997 at a paltry sum of only Rs. Four lacs even though circle rate at that time was much higher and therefore, the appellate court had erred in law by relying upon the circle rate fixed by the District Magistrate under the Stamp Rules. In support of his contention, he has relied upon a decision of this Court rendered in the case of State of U.P. and others Vs. IIIrd Addl. District Judge and sessions Judge and others [2002 (2) A.R.C.437].

It is not disputed that the petitionerBank was an old tenant of the disputed premises since 1971. Judicial notice of the fact can be taken that where an old tenant sits on a property, its value automatically diminishes. Further, an application for enhancement was moved about two and half years later, thus, the appellate court was justified in ignoring it. It was not denied by the petitionerBank even before the appellate court that the report of valuer submitted by it had not been proved or was supported by affidavit and therefore, was inadmissible. The landlord had filed and proved the report of his valuer which showed value of the land at Rs.2200/ per sq. meter and this is the same rate which has been fixed by the District Magistrate under the Stamp Rules. Apart from this, there was no evidence so far as the market value of the land is concerned. The appellate court has rightly relied upon various decisions of this Court including in the case of Satyapal Singh and others Vs. State Bank of India and others [2003 (2) A.R.C. 644] and in the case of Laxmi Talkies Vs. Rent Control and Eviction Officer [2003 (2) A.R.C. 549] to hold that in the circumstances of the case, the circle rate fixed by the District Magistrate under the Stamp Rules was rightly considered to be the market value.

The decision cited by the counsel for the petitioner does not apply to the facts of the present case. A perusal thereof shows that there was other evidence on record to prove the market value of the land.

It is worthy of note that there is no difference between the parties so far as the cost of the building is concerned.

For the reasons above, this is not a fit case for interference under Article 226 of the Constitution of India. Rejected.