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**(2006) 11 AHC CK 0037**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 12721 of 2003**

U.P. Cooperative Bank Ltd.

APPELLANT

Vs

Additional District Judge, Court No. 15 and Others

RESPONDENT

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**Date of Decision :** 21-11-2006

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227  
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —  
Section 21(1), 21(8), 22

**Citation :** (2006) 10 ADJ 726 : (2007) 5 AWC 5153

**Hon'ble Judges :** Anjani Kumar, J

**Bench :** Single Bench

**Advocate :** Bhanu Pratap Singh, for the Appellant; K.K. Arora and S.C., for the Respondent

**Final Decision :** Dismissed

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## Judgement

Anjani Kumar, J.—The Petitioner, who is tenant of the ground floor of building No. 171-Labu Lane, Meerut (here-in-after referred to as "accommodation in question", by means of present writ petition under Article 226 of the Constitution of India has challenged the order passed by the appellate authority under the provisions of the U. P. Act No. 13 of 1972 (In short "the Act") dated 19th December, 2002, whereby the appellate authority dismissed the appeal filed by the Petitioner-tenant against the order dated 19th November, 1998, passed by the prescribed authority u/s 21(8) of "the Act", copies whereof are annexed as Annexures-"11" and "7", respectively to the writ petition.

2. The brief facts of the present case as narrated in the writ petition are that there is no dispute between the parties that the Petitioner is tenant of the ground floor portion of the accommodation in question of which Respondents 3 and 4 are the landlord. The Petitioner is co-operative society registered under the provision of U. P. Co-operative Societies Act, 1965 and are carrying on banking business under the licence granted by the competent authority under the provision of

Banking Companies Regulations Act and is paying Rs. 300 per month as rent. It appears that initially an application u/s 21(1)(a) of "the Act" was filed by the contesting Respondents-landlord against the Petitioner-tenant for release of the accommodation in question in favour of the landlord on the ground that the accommodation is required bona fide for personal requirement of the landlord. The aforesaid release application has been dismissed by the prescribed authority vide order dated 18th October, 1984, a copy of which is annexed as Annexure-"2" to the petition.

3. The landlord thereafter filed an application u/s 21(8) of "the Act" for enhancement of the rent of the accommodation in question in accordance with the procedure prescribed u/s 21(8) of "the Act". By means of this application the landlord claimed that the Petitioner is tenant of the accommodation in question consisting five rooms, one store room, two latrine bathrooms, two Baramdah and lawn as well as courtyard measuring area 2200 sq. ft., for past thirty years. The circle rate of the land over which the accommodation in question standing for the residential purposes is Rs. 5,000 per sq. mtr. and the circle rate for the same land when used for the commercial purposes is Rs. 12,000 per sq. mtr. Since the accommodation in question is being utilised for commercial purposes wherein the tenant is carrying on his banking operations, the value of the land plus building would be not less than Rs. 27,44,200, the details whereof are given in the application u/s 21(8) of "the Act". The break up of the value of the land is Rs. 23,15,250 and the value of the construction is Rs. 4,29,000, therefore it was prayed by the landlord that according to the procedure prescribed u/s 21(8) of "the Act", the total rent payable by the tenant to at least the landlord comes to Rs. 22,868.33 per month.

4. The Petitioner-tenant filed reply denying the allegations made by the landlord in its application and submitted that the circle rate, which has been referred to in the application, is not applicable in the case of the accommodation in question because the landlord has purchased the accommodation in question for a sum of Rs. 4,00,000 and that is the real value of the accommodation in question. The tenant also disputed that the accommodation in question is being used for non-residential purpose or commercial as the same is situated purely in the residential area. It has also been asserted that after 1994, the value of the accommodation in question is not increased, nor the circle rate fixed by the District Magistrate concerned is increased. The value of the accommodation in question shown by the landlord is wholly illusory and therefore the application for enhancement of the rent is liable to be dismissed.

5. It is not disputed that the provisions of the U. P. Act No. 13 of 1972 are applicable to the accommodation in question. The landlord filed report of the valuer alongwith an affidavit of authorised valuer and the tenant has also filed affidavit of Regional Manager. The prescribed authority after considering the relevant contentions of the parties and after going through the law laid down by this Court in 1993 (2) ALR 3439, 1996 (1) ALR 236, 1998 (1) ARC 329 has held

that the value of the land is to be included in the value of the accommodation in question for the purposes of proceeding u/s 21(8) of "the Act". It has recorded a finding that the accommodation in question is being used for commercial purposes and therefore the value of the land be fixed at the circle rate is Rs. 12,000 per sq. mtr., whereas the landlord in his application has claimed the value of the land only at the rate of Rs. 8,000 per sq. mtr, therefore the value shown by the landlord regarding the value of the land is reasonable and even less than the circle rate. In reply to the arguments advanced on behalf of the tenant that for the purposes of Section 21(8) of "the Act" ; the prescribed authority should take into account the value of the accommodation in question as per the value for which the accommodation was purchased by the landlord. This contention has not been accepted by the prescribed authority in view of the law laid down by this Court in *Padma Tandan v. District Judge, Allahabad and Ors.*, 1992 ALR 981. Thus, the prescribed authority found that the value of the accommodation in question in possession of the Petitioner-tenant as per calculation made in the impugned order, the rent comes to Rs. 22,868.33 per month payable by the Petitioner-tenant w.e.f. 1st January, 1997.

6. Aggrieved by the order passed by the prescribed authority, the Petitioner-tenant preferred an appeal u/s 22 of "the Act" before the appellate authority. Before the appellate authority same arguments were advanced as were advanced before the prescribed authority. The appellate authority after discussing the evidence and the materials on record as well as the arguments advanced on behalf of the parties has recorded categorical finding that the accommodation in question is being used for commercial purposes as the banking activities are carried out by the tenant-Petitioner. On the question of value of the accommodation in question including the land, it has affirmed the finding arrived at by the prescribed authority and found that the rent fixed by the prescribed authority cannot in any way said to be illegal or perverse. The appellate authority therefore vide its order dated 19th December, 2002 dismissed the appeal filed by the Petitioner-tenant. Thus, this writ petition.

7. Heard learned Counsel appearing on behalf of the parties.

8. Before this Court also, learned Counsel for the Petitioner-tenant repeated the same arguments as were advanced before the prescribed authority as well as before the appellate authority. Learned Counsel for the Petitioner-tenant has not been able to demonstrate that the findings arrived at by the prescribed authority and affirmed by the appellate authority in any way suffer from any error, much less error apparent on the face of record. In view of the law laid down by the Apex Court in *Ranjeet Singh v. Ravi Prakash*, 2004 (1) ARC 613: 2004 (2) AWC 1721 (SC), this Court in exercise of jurisdiction under Article 226 or 227 of the Constitution of India, cannot sit in appeal over the concurrent findings arrived at by the prescribed authority and affirmed by the appellate authority. The Apex Court has held, which read thus:

A perusal of the judgment of the High Court shows that the High Court has

clearly exceeded its jurisdiction in setting aside the judgment of the appellate court. Though not specifically stated, the phraseology employed by the High Court in its judgment, goes to show that the High Court has exercised its certiorari jurisdiction for correcting the judgment of the appellate court. In the case of *Surya Dev Rai Vs. Ram Chander Rai and Others*, , this Court has ruled that to be amenable to correction in certiorari jurisdiction, the error committed by the Court or Authority on whose judgment the High Court was exercising jurisdiction, should be an error which is self-evident. An error which needs to be established by lengthy and complicated arguments or by indulging into a long-drawn process of reasoning, cannot possibly be an error available for correction by writ of certiorari. If it is reasonably possible to form two opinions on the same material, the finding arrived at one way or the other, cannot be called a patent error. As to the exercise of supervisory jurisdiction of the High Court under Article 227 of the Constitution also, it has been held in *Surya Dev Rai* (supra) that the jurisdiction was not available to be exercised for indulging into re-appreciation or evaluation of evidence or correcting the errors in drawing inferences like a court of appeal.

9. In this view of the matter, I find that the orders impugned in the present writ petition passed by prescribed authority and affirmed by the appellate authority do not warrant any interference by this Court in exercise of jurisdiction under Article 226 of the Constitution of India. This writ petition therefore has no force and is accordingly dismissed. The interim order, if any, stands vacated. However, there will be no order as to costs.