

(1998) 11 AHC CK 0078

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 25167 of 1997

Vijai Singh and Others

APPELLANT

Vs

VIIIth Addl. District Judge, Agra and Others

RESPONDENT

Date of Decision : 02-11-1998

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21(1)(b)

Citation : (1998) 11 AHC CK 0078

Hon'ble Judges : S.N. Agarwal, J

Final Decision : Dismissed

Judgement

Sudhir Narain, J.—This Writ Petition is directed against the order dated 31.5.1997 passed by the Additional District Judge, Agra allowing the appeal filed by the landlord and releasing the disputed accommodation in favour of the landlord Respondent.

The facts, in brief are that the petitioners are the tenants of the disputed accommodation of which Respondent No.2 is the landlord Respondent No. 2 filed an application for release of the disputed accommodation on the allegation that it is in dilapidated condition. The petitioners contested the application and denied that the shops in question were in dilapidated condition. The Prescribed Authority rejected the application vide his order dated 21.11.1994. Respondent No. 2 filed appeal against this order before the District Judge. Respondent No. 1 has allowed the appeal by the impugned order dated 31.5.1997 reversing the finding recorded by the trial Court.

2. I have heard learned counsel for the parties. Learned counsel for the petitioners has assailed the finding recorded by the appellate authority that the disputed accommodation is in dilapidated condition. It is admitted to the petitioners that during the pendency of appeal additional evidence was adduced on behalf of landlord and the petitioners were also granted time to submit evidence in rebuttal. Respondent No. 2 had filed, report of the Architect wherein

it was indicated that the accommodation in dispute is in dilapidated condition. This report was also proved by Architect. The petitioners did not file any counter affidavit. In view of the additional evidence the appellate authority recorded finding that the disputed premises is in dilapidated condition. I do not find any legal infirmity in this finding.

3. The second submission of the learned counsel for the petitioners is that the plan paper 35C, which was submitted by the landlord has yet not been sanctioned by the municipal authorities and unless the plan is sanctioned the landlord Respondent No. 2 will not be able to make construction. He has placed reliance upon the decision State of U. P. v. Additional District Judge/Special Judge, E. C. Act, Dehradun and others, 1997 (30) ALR 645 wherein a direction was given that the petitioner shall vacate the accommodation only when the plan is sanctioned by the appropriate authority. Learned counsel for the Respondent submitted that the plan submitted by the landlord conforms to (sic) the byelaws for making construction.

4. Considering the facts and circumstances of the present case the writ petition is dismissed as regards the order of demolition and reconstruction is concerned by the petitioners shall hand over possession within a month from the date the map is sanctioned by the appropriate authority and the intimation to this effect is given to the petitioner as well as to the prescribed authority. The prescribed authority on finding that the map has been duly sanctioned shall order the petitioner to vacate within (one month. On such vacation Respondent No. 2 shall construct the building as deposed by him, possibly within six months, and after reconstruction shall offer it to "the petitioners in accordance with law.

The writ petition is dismissed subject to the direction and observation made above.