

**(1999) 11 AHC CK 0080****Allahabad High Court****Case No:** Civil Miscellaneous Writ Petition No. 12150 of 1997

State of U.P. and Another

APPELLANT

Vs

Deepak Vaish Adult and Another

RESPONDENT

**Date of Decision:** Nov. 6, 1999**Acts Referred:**

- Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 - Section 21(1)(8)

**Hon'ble Judges:** S.N. Agarwal, J**Final Decision:** Allowed**Judgement**

Sudhir Narain, J.

This petition is directed against the order dated 31/10/1996, Annexure 1 to the petition, passed by Additional District Judge, Kanpur Nagar. The petitioners are tenants of premises No. 7/189, Swaroop Nagar, Kanpur Nagar. The landlord Respondent No. 1 filed an application for enhancement of rent under Section 21 (8) of U.P. Act No. XIII of 1972. The Prescribed Authority rejected the said application. The landlord Respondent No. 1 then filed an appeal and the appellate authority allowed the appeal by the impugned order dated 31st October, 1996.

2. I have heard learned Standing Counsel appearing on behalf of the petitioners and Sri Rajesh Tandon, learned Counsel appearing on behalf of Respondent No. 1.

3. Learned Standing Counsel for the petitioners urged that Sri Deepak Vaish, Respondent No. 1 was not landlord of the premises in question. The appellate authority has considered this aspect of the matter and has recorded finding that he was landlord of the premises in question. This does not suffer from any infirmity. The second contention of the learned Counsel for the petitioners is that the report of the valuer was rejected by the Prescribed Authority but the appellate authority without scrutinising the details as to whether valuation is correctly made, relied upon it. The disputed premises was let out to the petitioners on monthly rent of Rs.

1,575. The Respondent No. 2 has enhanced the rent Rs. 35,817.50 paisa.

4. Sri Rajesh Tandon, learned Counsel for the Respondent No. 1, submits that there was no evidence to the contrary and the Respondent No. 2 was justified in relying upon such report of the valuer. The Respondent No. 2 was still to scrutinise the correctness of the valuer report and its basis.

5. In the facts and circumstances of the case the order dated 31101996, Annexure1 to the petition is hereby quashed. The Respondent No. 2 shall again decide the appeal keeping in view the observations made above. He shall decide the appeal within a period of three months from the date of product ion of certified copy of this order, after affording opportunity of hearing to both the parties. The petitioners shall pay arrears of rent to the landlord Respondent No. 1. The landlords can withdraw the amount deposited by the petitioners in pursuance of the order dated 841997 passed by this Court.

Let a copy of this order be given to the learned Counsel for the petitioners on payment of usual charges within three days. Petition allowed.