

(2000) 07 AHC CK 0068

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 13486 of 1997

Brij Gopal Srivastava

APPELLANT

Vs

IVth Addl. Distt.Judge,Kanpur
and OthersRESPONDENT

Date of Decision: July 20, 2000**Acts Referred:**

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

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 2881995 whereby release application filed by the Respondents No. 3 and 4 under "Section 21 (1) (a) of 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 Respondent No. 2.

2. Relevant facts giving rise to the present petition are that petitioner filed an application for setting aside the order dated 2881995 on 18101995 and also preferred an appeal under Section 22 of the Act on 31101995. It was on 1571996 that the application filed by the petitioner on 18101995 was dismissed by the Prescribed Authority. Thereafter, the appeal filed by the petitioner was also dismissed by the Appellate Authority by its judgment, and order dated 2631997. Hence the present petition.

3. Learned Counsel for the petitioner vehemently urged that the Appellate Authority has acted illegally in affirming the judgment and order passed by the Prescribed Authority and that the findings recorded by it on the questions of bonafide need

and hardship are based on surmises and conjectures. On the other hand, learned Counsel appearing for the contesting respondents submitted that the Appellate Authority has taken into consideration the entire evidence which formed part of the record and thereafter, rightly affirmed the judgment and order passed by the Prescribed Authority and rightly dismissed the appeal.

4. I have considered the submissions made by the learned Counsel for the parties and also perused the record.

The authorities below have recorded concurrent findings on the question of bona fide and genuine need of the petitioner as well as comparative hardship of the parties. The said findings are findings of fact and are based on relevant material on the record. No case for interference under Article 226 of the Constitution of India is made out.

5. Lastly, learned Counsel for the petitioner submitted that the petitioner may be granted some reasonable time to vacate the building in question. Learned Counsel appearing for the respondents has got no objection if six months time is granted to the petitioner to vacate the building in question subject to the condition petitioner files an undertaking before the Prescribed Authority to vacate the building in question immediately after expiry of the aforesaid time and also make payment of rent of the building in question for the period he remains in occupation of the same.

6. In view of the aforesaid facts, it is hereby provided that the petitioner shall not be evicted from the building in question for a period of six months from today subject to the condition, petitioner gives an undertaking before the Prescribed Authority within a period of two weeks from today that he shall vacate the building in question immediately on expiry of the aforesaid time or before that and shall make, the payment of rent of the building for the period petitioner remains in occupation of the same.

Subject to what has been stated above, the writ petition fails and is dismissed. The interim order, if any, is hereby discharged.