
**Bharat Kumar Agarwal and another Vs Rent Control And Eviction Officer,
Deoria and others**

Civil Miscellaneous Writ Petition No. 21410 of 1996

Court: Allahabad High Court

Date of Decision: March 7, 2008

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 "Section 16

Hon'ble Judges: Dilip Gupta, J

Final Decision: Allowed

Judgement

Dilip Gupta, J.

This petition has been filed by the landlord for setting aside the order dated 27th June, 1996 passed by the Rent Control &

Eviction Officer by which the application filed by the landlord on 29th November, 1995 for dropping the proceedings initiated under section 16 of

the U.P. Urban Buildings (Regulation of Letting, Rent & Eviction) Act, 1972 (hereinafter referred to as the "Act") has been rejected.

2. The records indicate that as the tenant of the building in dispute had built his own residential house in the same city, the landlord moved an

application under section 16 of the Act on 20th March, 1995 while an application for allotment of the premises was also filed by one Sri Keshav

Chand Pandey who has been arrayed as respondent No. 2. During the pendency of the aforesaid applications, the landlord also filed an

application under section 21 (1) (a) of the Act which application was allowed by the order dated 23rd November, 1995 and pursuant to the

aforesaid order the tenant has delivered possession of the premises to the landlord on 28th November, 1995.

3. Subsequently, the landlord moved an application before the Rent Control & Eviction Officer with a prayer that the proceedings under section 16

of the Act may be dropped in view of the order passed on the application filed by the landlord under section 21 (1) (a) of the Act. This application

was rejected by the Rent Control & Eviction Officer by the order dated 27th June, 1996.

4. Learned Counsel for the petitioner submitted that in view of the decisions of this Court in Dr. (Miss.) Rita Rudra v. Rent Control & Eviction

Officer, Allahabad, 1 2005160) ALR 39THCL; Smt. Vimla Devi v. Rent Control & Eviction Officer and others, 2005 (58) ALR 568 (HC) and

Naema Zuhear v. Rent Control & Eviction Officer, Aligarh, 2005 (601 ALR 528 (HC) the proceedings under section 16 of the Act cannot

continue as the premises had already been released in favour of the landlord under section 21 (1) (a) of the Act.

5. Learned Counsel for the respondents is not present even though list has been revised.

6. In Dr. (Miss.) Rita Rudra (supra) this Court clearly held:

Learned Counsel for the petitioner, has placed reliance upon Suhail Ahmad v. Prescribed Authority, Meerut, 1984 (1) ARC 283. wherein it has

been held that this is settled law, that after a building is released on an application for release under section 21 (1) of the Act, the landlord is not

called upon to obtain further order of release from R.C. and E.O. nor has the said officer any jurisdiction to allot the accommodation to any one

else.

7. The same view was expressed by this Court in the other two judgments relied upon by the learned Counsel for the petitioners. It is, therefore,

clear that after the building was released on the application filed by the landlord under section 21 (1) (a) of the Act, the Rent Control & Eviction

Officer cannot allot the same on the allotment application filed by Keshav Chand Pandey respondent No. 2.

8. In view of the aforesaid the order dated 27th June, 1996 passed by the Rent Control & Eviction Officer is liable to be quashed and is,

accordingly, quashed and in view of the aforesaid decision of this Court in Dr. (Miss.) Rita Rudra (supra) the proceedings under section 16 of the

Act initiated on the application filed by Keshav Chand Pandey are without jurisdiction and are quashed. The writ petition, therefore, succeeds and

is allowed.