

(1999) 11 AHC CK 0098**Allahabad High Court****Case No:** Civil Miscellaneous Writ Petition No. 327 of 1982

Ramesh Chandra Gupta and
Others

APPELLANT**Vs**

Sushila Devi and Others

RESPONDENT**Date of Decision:** Nov. 11, 1999**Acts Referred:**

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

Hon'ble Judges: Yatindra Singh, J**Final Decision:** Allowed**Judgement**

Yatindra Singh, J.

Smt. Sushila Gupta (the contesting respondent) is the landlady of the house in dispute. The petitioners are the tenants. The contesting respondent filed an application under Section 21 (1) (b) of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (the Act). This application was dismissed by the Prescribed Authority by its order dated 24/7/1978 on the ground that the house is not in dilapidated condition. The contesting respondent filed an appeal. This appeal was allowed on 15/10/1981 and the matter was remanded for considering Section 21 (1) (a) of the Act also. Hence the present writ petition.

2. The contesting respondent had filed an application under Section 21 (1) (b) of the Act (Annexure1 to the writ petition). The averments mentioned in this application are substantially under Section 21 (1) (b) of the Act and it was on this basis that the Prescribed Authority tried this application and the detailed order was passed therein. The contesting respondent also filed an appeal (Annexure3 to the writ petition). In this appeal all grounds taken were related to Section 21 (1) (b) of the Act yet appellate Court has remanded the matter for reconsideration under Section 21 (1) (a) of the Act. The petitioners have mentioned in paragraph 10 of the writ petition that appellate Court has made a new case for the contesting respondent. It has not

been specifically denied in para11 of the counteraffidavit. The case of the contesting respondent was under Section 21 (1) (b) of the Act and was so understood by the parties. There was no justification for remanding the matter for reconsideration under Section 21 (1) (a) of the Act. In view of this, the appellate Courts order dated 15101981 is hereby quashed and the order of the Prescribed Authority dated 2471978 is restored.

3. It would be open to the contesting respondent to file a fresh application under Section 21 (1) (a)of the Act if she is so advised. In case such application is filed, it would be decided afresh in accordance with law.

With these observations the writ petition is allowed.