
Ramesh Chandra Gupta and Others Vs Sushila Devi and Others

Civil Miscellaneous Writ Petition No. 327 of 1982

Court: Allahabad High Court

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 (Annexure 1 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 (Annexure 3 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 15/10/1981 is hereby quashed and the order of the Prescribed

Authority dated 24/7/1978 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.