

Narendra Kumar and Another Vs IVth A.D.J.Muzaffar Nagar and Others

Court: Allahabad High Court

Date of Decision: Jan. 25, 1999

Acts Referred: Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 " Section 21(1)(a)

Hon'ble Judges: S.N.Agarwal, J

Final Decision: Allowed

Judgement

Sudhir Narain, J.

This writ petition is directed against the order of the Prescribed Authority dated 2531995 releasing the shop in question in favour of landlady respondent No. 3 and the order of the appellate authority dated 551998 affirming the said order in appeal.

2. The facts, in brief, are that respondent No. 3 filed application for release of the shop in question under Section 21(l)(a) of U.P. Urban Buildings

(Regulation of Letting, Rent and Eviction) Act, 1972 (in short "the Act") for release of the shop in question on the allegation that her son

Abhinandan Sharma will start his own computer center in the disputed shop for imparting education to the students and also for computer training

by installing computer etc. He has obtained diploma in computer and is well technically qualified to do this job. The petitioner contested the

application. It was stated that he was already employed and getting sufficient income and did not require the shop in question for computer center.

The Prescribed Authority allowed the release application by his order dated 2531995 on the finding that Abhinandan Sharma son of Respondent

No. 3 will open the computer center in the disputed shop and released the disputed shop in her favour. The petitioner preferred an appeal.

Respondent No. 1 has dismissed the appeal on 551998.

3. I have heard Sri Rajiv Joshi, learned Counsel for the petitioner and Sri P.K. Jain, learned Counsel for the respondent No. 3.

4. Learned Counsel for the petitioners has assailed, the finding recorded by both the authorities below on the question of bona fide need. It is

contended that Abhinandan Sharma, son of Respondent No. 3, was already doing the job and he did not require the shop in question. He placed

before me the judgment of the Prescribed Authority wherein he has observed that Abhinandan Sharma was working as an agent in company

known as Pearls Green Forest Ltd. He used to deposit the amount in the bank. When he left Pearls Green Forest Ltd., he started work in firm

named Amrita Plywood Pvt. Ltd. This was done between the period 1989 to 1991. The Prescribed Authority after considering this aspect of the

matter came to the conclusion that Abhinandan Sharma required the disputed accommodation for opening his computer center as alleged by him.

The application was filed in the year 1993 and if prior to that he had worked in some firm as agent, that will not show that he does not require the

shop in question for opening the computer center.

5. The petitioner had not shown that Abhinandan Sharma has got a vacant accommodation available for opening the computer center. In absence

of any averment to the effect that he had got some other vacant accommodation available the finding recorded by the authorities below that he

requires the disputed shop for opening computer center does not suffer from manifest illegality. Learned Counsel for the petitioners submitted that

during the pendency of the appeal additional evidence was filed wherein it was asserted that Abhinandan Sharma, son of Respondent No. 3 is

engaged with Aptech Company at Delhi. It is not denied that Abhinandan Sharma is qualified in computer work. If he has taken some job during

the pendency of the proceedings it does not show that he does not require the shop for opening computer center. On the other hand it shows that

he is working in various companies to teach computer to the students and he wants to do the same work in his own shop by opening a computer

center. The finding recorded by both the authorities that the need of the son of Respondent No. 3 to open the computer center does not suffer

from any manifest illegality.

6. In the last learned Counsel for the petitioners submitted that the authorities below have not properly considered the comparative hardships in

accordance with law. I have perused the impugned order. The authorities below have considered this aspect. It has been found that there is no

vacant accommodation available for the son of Respondent No. 3 to carry on the business and as such his need is much more bonafide.

7. In view of the above the writ petition is dismissed. The parties shall, however, bear their own costs.

8. In the end learned Counsel for the petitioners prayed that some time may be granted to vacate the disputed accommodation. Considering the

facts and circumstances of the case, the petitioners are granted eight months time to vacate the disputed accommodation provided the petitioners

give written undertaking on affidavit before Prescribed Authority, Respondent No. 2, within three weeks from today that they will vacate the

disputed accommodation within the time granted by this Court and will hand over its peaceful possession to Respondent No. 3.