

**(2007) 12 AHC CK 0132**

**Allahabad High Court**

**Case No:** None

State of U.P. and Another

APPELLANT

Vs

District Judge and Others

RESPONDENT

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**Date of Decision:** Dec. 6, 2007

**Acts Referred:**

- Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 - Section 21(8)

**Citation:** (2008) 2 AWC 1348

**Hon'ble Judges:** Sunil Ambwani, J

**Bench:** Single Bench

**Final Decision:** Partly Allowed

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### **Judgement**

Sunil Ambwani, J.

Heard Sri Mayank Saxena, learned standing counsel.

2. Learned standing counsel states that the possession of the bungalow was handed over to Sri Ashok Kumar Garg and Smt. Madhuri Garg on 1.2.2003 and that half of the rent as enhanced by the court below u/s 21 (8) of U. P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 was paid in pursuance of the order of Supreme Court to the owners.

3. No one appears on behalf of the respondents in both the writ petitions. The property was allotted by the District Magistrate to the District Supply Officer for his office at a monthly rent of Rs. 86. Initially only the constructed portion, i.e., 409.22 sq. mtrs. was considered for determining market value. The valuation of the land was not considered by the District Magistrate. The site plan produced by the D.G.C. (C.) reported the covered area at 1139.40 sq. mtrs. The appellate court considered the valuation of the land at the circle rate of Rs. 2,003 and that taking into account the depreciated value of the construction at Rs. 1,10,489.40, the value of the property was fixed at Rs. 27 lacs.

4. Learned standing counsel contends that the valuation is grossly arbitrary, whimsical and unrealistic value. The circle rate was highly excessive. The market value of the building is to be assessed, taking into account the value which a willing buyer is ready to pay to the willing seller and not on the value assessed by a valuer on circle rate for sale/seller. The building is old and has fallen to disrepair and that no one would have taken the building on monthly rent of Rs. 7,000 per month.

5. The determination of market value under the proviso to Sub-section (8) of Section 21 of the Act is for the purposes of enhancement of the rent. The market value of the building under the proviso is not to be determined as if the vacant building was to be put up for sale. It should be assessed and calculated for the purposes of letting out the building. The landlord is not required to be compensated with the valuation of the land. He has to be reasonably compensated for the building let out to the State Government for such building is exempted from the provisions of Sub-clause (a) of Subsection (1) of Section 21, which provides that the landlord may get the building released if it is required for his accommodation by himself or for any member of his family. The object of Sub-section (8) of Section 21 is not to compensate the landlord who was willing to let out or had purchased the building to be let out to the State Government. The proviso to Sub-section (8) of Section 21 is not to be applied mechanically by fixing market value. It is an indicator for calculating the monthly rent, where such value cannot be determined. The rental value is not synonymous with the valuation of the property. If the District Magistrate is unable to find out from the exemplars of letting out similar property for fixing the rental value, he may consider the market value of the land and building including the land for the purposes of enhancement of the rent.

6. It is highly unreasonable to presume that the building which was let out by the landlord at Rs. 86 per month would fetch Rs. 7,000 per month in the year 2001. Such a calculation would render the object and purpose of Sub-section (8) of Section 21 to be unreasonable. The Court must interpret the law to carry out object of the Act. An interpretation which stretches the meaning of the enactment beyond the object sought to be achieved, should be avoided.

7. Having regard to the facts and circumstances of the case, I find that the value of the vacant land should not have been calculated at the circle rate, for calculating the market value of the building. It would have been sufficient if in such case half the circle rate of the land is treated to be the value of the indicator to determine the market value of the building.

8. The writ petition is partly allowed. The valuation of the building ""fixed by the District Magistrate is revised to 50% of the value determined on the basis of circle rate and the valuation of the building fixed by the valuer. The Apex Court has already directed half of the amount to be paid by the landlord. Learned standing counsel submits that the State Government has already paid half of the amount at the rate of Rs. 7,220 by Bank Draft No. 89861 dated 5.3.2002 to Sri Ashok Garg. The

remaining amount worked out at Rs. 50% of the value fixed by the District Judge beginning from the month after an application was given to the date when the possession was handed over shall be paid within next three weeks.