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(2008) 07 AHC CK 0235

Allahabad High Court

Case No: None

Smt. Manorama Devi and Others		APPELLANT
	Vs	
District Magistrate and Others		RESPONDENT

Date of Decision: July 14, 2008

Acts Referred:

- Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 - Section 2(g)

Citation: (2008) 4 AWC 4186

Hon'ble Judges: S.U. Khan, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

S.U. Khan, J.

No one has appeared on behalf of respondent Nos. 3, 4 and 7 who were applicants for allotment before R.C. & E.O. Fresh notices sent to respondent Nos. 5 and 6 have returned with the endorsement of the postman to the effect that they have left the places on which notices were sent. In their allotment applications they had given the addresses mentioned against their names in the array of the respondents hence there is no need to direct the petitioner to take steps for the third time. Moreover, it is clear from the impugned order that even before R.C. & E.O. none of the prospective allottees appeared.

2. This writ petition by the landlord is directed against order dated 17.4.1996, passed in the case Nathu Singh Jatav v. Smt. Manorama Devi and Ors. by R.C. & E.O., Ghaziabad declaring accommodation in dispute to be vacant. It is ground floor portion of house No. 47 ahata of Bhoudumal, situate at G.T. Road, Ghaziabad which

was initially in occupation of P.W.D. at the rent of Rs. 1,600 per month. It was vacated in November, 1991.

3. Before R.C. & E.O. landlord contended that current presumptive rent of the accommodation in dispute would be more than Rs. 9,000 per month and first floor accommodation had been let out for Rs. 2,420 per month. R.C. & E.O. held that current presumptive rent is of no value and for the purpose of determining applicability of the Act old rent is relevant.

4. I do not agree with the reasoning given by R.C. & E.O. At the time of consideration of allotment application if the building is actually vacant and in possession of the landlord current presumptive rent will have to be determined for deciding applicability of the Act. By virtue of Section 2(g) of U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, as added in 1995 the Act does not apply to a building rent of which is more than Rs. 2,000 per month. The building which was let out before 1991 for Rs. 1,600 per month could easily be let out for more than Rs. 2,000 per month in 1996.

5. Accordingly, writ petition is allowed, impugned order being illegal and without jurisdiction is set aside.