

(2004) 08 AHC CK 0311

Allahabad High Court (Lucknow Bench)

Case No: Writ Petition No. 4844 of 1986 (R/C)

Laxmi Kant Girdhar Lal and
Others

APPELLANT

Vs

Prescribed Authority/Munsif and
Others

RESPONDENT

Date of Decision: Aug. 2, 2004

Acts Referred:

- Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 - Section 20, 21

Citation: (2005) 1 ARC 57

Hon'ble Judges: Y.R. Tripathi, J

Bench: Single Bench

Advocate: S.K. Mehrotra and I.D. Shukla, for the Appellant; Sanjay Kumar and CSC, for the Respondent

Judgement

Y.R. Tripathi, J.

Heard learned Counsel for the petitioners. None responds for the respondents even on revision of the list.

2. This writ petition has been filed for issue of writ of certiorari quashing the order dated 15.7.1986 contained in Annexure-XIII of the writ petition passed by the Prescribed Authority, Kheri.

3. Brief facts, leading to the filing of this writ petition, are that one Smt. Anardevi, original respondent No. 2 filed an application u/s 21 of the U.P. Act No. 13 of 1972 for release of shop situated in Mohaila Galiamandi, City Lakhimpur, District Kheri on the ground of bonafide need. The writ petitioners putting in their appearance in the aforesaid case, made an application for stay of the proceeding. They pleaded that earlier Lala Murlidhar, the admitted owner of the shop in question, had filed a Civil Suit No. 113 of 1975 in the Court of VIIth Additional Munsif, Kheri and during the

pendency of that suit, he died and three parties claiming to be his successor sought their substitution in his place. Smt. Anardevi, original respondent No. 2, was one of them. The other parties were allegedly the adopted son of Lala Murlidhar and a third party on the basis of some registered deed claimed to be substituted in place of Lala Murlidhar. During the pendency of that suit, Smt. Anardevi filed a SCC Suit No. 3 of 1981 u/s 20 of the U.P. Act No. 13 of 1972 for eviction of the writ petitioners on the ground of default of payment of rent. In the said SCC Suit a dispute was raised about the ownership of Smt. Anardevi in respect of shop in question and it was held by the SCC Court that a serious question of title was involved, hence it would be proper that the question of title should be got decided by a competent Court. The plaint of that suit was also returned to the plaintiff with a direction to present it before the appropriate Court. It was in the light of these facts that the writ petitioners sought the stay in Rent Eviction Case No. 10 of 1986 filed by the original respondent Smt. Anardevi in which impugned order has been passed.

4. The learned Counsel for the writ petitioners during the course of argument states that CPC was not applicable in the case and there was no question of stay of that proceeding. He, however, urges that since a serious question of title was involved in the case and as it is landlord only under the provisions of Section No. 21 of U.P. Act No. 13 of 1972, who could have made an application for release, it was the duty of the Prescribed Authority to have first decided as to whether or not Smt. Anardevi or for that matter her successors have obtained the declaration of their title in view of the direction made in SCC Suit No. 3 of 1981 referred to above.

5. In view of the submissions made by the learned Counsel for the petitioners, this writ petition is disposed of with a direction to the Court below that if the petitioners take the plea of non-maintainability of application u/s 21 U.P. Act No. 13 of 1972 by Anardevi or by her heirs, the Prescribed Authority shall in the light of evidence brought before it decide the issue of ownership of the applicants taking into consideration the findings recorded by SCC Court in Suit No. 3 of 1981. I make no order as to costs.