
(2019) 04 SC CK 0056

Supreme Court Of India

Case No: Civil Appeal Nos. 3895, 3896 Of 2019

Ram Prakash & Anr

APPELLANT

Vs

Puttan Lal & Ors

RESPONDENT

Date of Decision: April 12, 2019

Acts Referred:

- Uttar Pradesh Urban Buildings (Regulation Of Letting, Rent And Eviction) Act, 1972 - Section 21(1)(a), 21(1)(b), 22

Citation: AIR 2019 SC 1800 : (2019) 4 JT 253 : (2019) 6 Scale 404 : (2020) 138 ALR 511 : (2019) 1 RCR(Rent) 538 : (2019) 4 Supreme 393

Hon'ble Judges: L. Nageswara Rao, J; M. R. Shah, J

Bench: Division Bench

Advocate: Satish Kumar, Anagha S. Desai

Final Decision: Disposed Off

Judgement

M.R. Shah, J

1. Leave granted.

2. Feeling aggrieved and dissatisfied with the impugned Judgment and Order dated 21.10.2016 and 11.08.2017 passed by the High Court of

Uttarakhand at Nainital in Writ Petition (M/S) No.5459 of 2001 and Review Application No.877 of 2016 respectively, the original defendants/tenants

have preferred the present appeals.

3. Respondent No.1 herein, landlord filed an application under Section 21(1)(a)(b) of the U.P. Urban Building Act (hereinafter referred to as "the Act")

Writ Petition preferred by the landlord releasing the building in question under Section 21(1)(b) of the Act. That thereafter, the appellants herein,â€

tenants preferred Review Application. The same came to be dismissed vide impugned Order dated 11.08.2017. Hence the present appeals.

4. We have heard learned Advocates appeared on behalf of the respective parties at length. We have also reappreciated the entire evidences on

record, more particularly, the evidences which came to be considered by the High Court while passing the impugned Judgment and Order. From the

material on record, it appears that the landlord relied upon the deposition of one Shri B. C. Joshi, Town Planning Engineer and also the notice issued by

the Corporation in support of their case that building is in a dilapidated condition and is required to be re-constructed. On the other hand, the

appellants-tenants seem to have relied upon the deposition of one Shri B. S. Rautela, Civil Engineer as well as one Shri P. C. Joshi, retired Assistant

Engineer of PWD in support of their case that the building was in sound condition and does not require re-construction. However, according to the

tenants, if some repair is done, in that case, the building in question can be in a habitable condition. Learned Counsel appearing on behalf of the tenants

has stated at the Bar that the appellants-tenants are ready and willing to repair the building occupied by them at their own cost. On the other hand,

the learned Counsel appearing on behalf of the respondents-landlord has opposed the above and has submitted that there is an imminent danger and

the condition of the building is such that it can fall down at any time.

5. Having heard the learned Counsel appearing on behalf of the respective parties and considering the material on record and the different

opinions/Reports and even considering the fact that the notice was issued by the Nagar Palika, Almora in the year 1996/1997 stating that the building

was in a dilapidated condition and therefore the same is required to be demolished and still even after period of approximately 24 years, the building

stands and as the tenants are ready and willing to get the building in question repaired at their own cost and the same is not to be deducted from the

rent, we are of the opinion that one opportunity is required to be given to the tenants to get the building repaired.

6. Hence, the present appeals are disposed of by permitting the appellants, tenants to get the building in question repaired at their own cost and the

tenants shall not claim any adjustment of the expenses incurred over repairing from the rent to be paid and the appellants, tenants to get the building

repaired at their own cost within the period of six months from today. We direct that thereafter, the appropriate Town Planning Authority of the

Corporation, to inspect the building in question and consider whether still the building is in a dilapidated condition and requires reconstruction or not.

If it is found that after the repairs are carried out the building is safe, in that case, nothing further is required to be done. However, if it is found by the

appropriate authority that even after repair, the building is in dilapidated condition and requires reconstruction, the authority may communicate their

decision/Report further after inspection and giving opportunity to both the parties, and thereafter, it will be open for the landlord to initiate appropriate

proceedings for release/eviction before the competent authority/court, which shall consider the same in accordance with law and on its own merits.

With the above observations, the present appeals stand disposed of.