

# SUPREME COURT OF INDIA

State Bank of India

Vs.

Km. Chandra Govindji

08.11.2000

(S. Rajendra Babu and D.P. Mohapatra JJ.)

## JUDGMENT:

### **RAJENDRA BABU, J.**

Leave granted.

The respondent is owner of a premises at Kasia Road, Deoria which was tenanted to the appellant-Bank. The land in which the said premises is situated measures approximately 12,000 square feet and the built area under the occupation of the appellant-Bank as a tenant is approximately 2,933 square feet at a rent of Rs. 300/- per month. In the said building the appellant-Bank had located its branch for several decades. Subsequently the rent was sought to be enhanced at Rs. 1,350/- per month from 01.10.1984 to 30.09.1989 with a further renewal on increase of rent @ 25% on the rent of Rs. 1,350/-. However, this proposal of the respondent was not accepted by the appellant. The respondent apart from filing a civil suit for eviction of the appellant also filed an application for enhancement of rent under Section 21(8) Proviso I thereto of U.P. Urban Building (Regulation of Letting, Rent and Eviction) Act, 1972. The respondent relied upon a valuation report given by Shri J.P. Aggarwal dated 11.12.1985 assessing the market value of the building at Rs. 16,50,000/-. On the basis of this report the respondent claimed a rent of Rs. 13,750/- per month from 01.01.1986.

The appellant-Bank resisted the said claim by contending that the premises in question was 70 years old and was in dilapidated condition and its depreciated value would not exceed Rs. 1 lakh. The respondent filed her own affidavit and that of Shri J.P. Aggarwal, the Valuer, in support of her case. On 29.10.1992 the appellant-Bank sought for an adjournment by filing an application on the ground that the Advocate had to go out of station for medical treatment and consequently the matter was adjourned on payment of costs. Next date fixed for hearing was 11.11.1992, when the Rent Controller did not hold the sittings and the matter was adjourned to 13.11.1992. On that date certain documents were produced alongwith photostat of the Valuers report dated 11.7.1988 showing the value of the building at Rs. 1,76,000/- and the matter was adjourned for further hearing to 24.11.1992. On 24.11.1992 Advocate for the appellant filed an application stating that on account of compelling personal reasons he had to go out of station and sought for an adjournment. However, the adjournment was not granted on that application and the same was dismissed 24.11.1992. However, the matter was set down for orders on 30.11.1992. In the meanwhile, on 28.11.1992 the appellant-Bank filed an application seeking to recall the order made on 24.11.1992 on the ground that the Advocate having taken ill had gone to Gorakhpur for medical examination on 24.11.1992. However, this application was not taken note of by the Rent Controller. On 30.11.1992 the appellant-Bank filed application before the Rent Controller which was kept on file and the matter

