

**SUPREME COURT OF INDIA**

Pradeep Kumar Sah

Vs.

Murari Lal Shah

S.L.P.(C)..790 of 2004

(R. C. Lahoti and Ashok Bhan JJ.)

03.02.2004

**ORDER**

Delay condoned.

1. Leave granted.

2. The learned counsel for the contesting respondent appears and takes notice and submits that the matter may be heard and decided finally today itself.

3. The respondent-landlord initiated proceedings under Section 21(1)(a) of the *U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972*. The Rent Controlling Authority recorded findings, based on evidence, in favour of the respondent upholding his entitlement to eviction. The appellants preferred an appeal. The Appellate Authority held that the respondent has failed in proving his bonafide requirement of the suit premises. Feeling aggrieved by the judgment of the Appellate Authority, the respondent preferred a writ petition in the High Court. The learned Single Judge has allowed the petition, set aside the judgment of the Appellate Authority and restored the order of the Rent Controlling Authority directing the appellants to be evicted.

4. A perusal of the judgment of the High Court shows that the High Court has concentrated only on the question of comparative hardship. The finding of the Appellate Authority on the question of bonafide requirement has not been even touched much less reversed. Unless and until the High Court had reversed the finding on the question of bonafide requirement recorded by the Appellate Authority against the respondent, the High Court could not have directed eviction solely by recording a finding on the question of comparative hardship. The appellants sought for a review of the judgment of the High Court but the prayer has been refused.

5. The judgment of the High Court suffers from serious infirmity and cannot be sustained.

6. The appeals are allowed. The impugned judgment and order dated 24.2.2003 and

15.11.2003 are set aside and the case is sent back to the High Court for hearing and decision afresh in accordance with law and consistently with the observations made hereinabove and on the available record.

7. In view of the time already lost, we request the High Court to hear and decide the writ petition at the earliest and preferably within a period of four months from the date of receipt of copy of this order.

8. No order as to the costs.