

SUPREME COURT OF INDIA

Mehmood Rahmat Ullah Khan

Vs.

Niyaz Ahmad Khan

C.A.No.1264 of 2009

(Markandey Katju and Gyan Sudha Misra, JJ.,)

23.02.2011

ORDER

1. Heard learned Counsel for the parties.
2. This Appeal has been filed against the impugned Judgment dated 8.10.2007 passed by the High Court of Allahabad.
3. The appellant herein is a landlord of premises in question and the respondent is the tenant. The appellant filed a Petition under Section 21(1)(a) of U.P. Urban Building Act, 1972 alleging that he has bonafide need of the premises and hence the tenant should be evicted. The prescribed authority found that the landlord could not establish his bonafide need and hence it rejected the Petition. The tenant filed an appeal and the Appellate Court has upheld the finding that there is no bonafide need of the premises of the landlord.
4. Surprisingly, the High Court while upholding the finding that there is no bonafide need of the landlord has allowed the Writ Petition by the impugned Judgment dated 8.10.2007 by increasing the rent. It is well settled that a High Court in Writ Petition cannot interfere with the finding of fact, regarding bonafide need.
5. We are also of the opinion that under Section 21, there is no question of enhancement of rent. That may be done under some other provision of the Act. Accordingly, we dispose of this appeal with the direction that the impugned Judgment is set aside and Judgment of First Appellate Court rejecting the Petition under Section 21 is upheld. The direction increasing rent is set aside.
6. The appeal is disposed of accordingly.
7. CIVIL APPEAL NO. 1073 OF 2009 This Appeal has been filed against the impugned Judgment dated 8.10.2007 passed by the High Court of Allahabad.

8. The facts have been set out in the impugned judgment and hence we are not repeating the same here.

9. Under Section 21(1)(a) of U.P. Urban Buildings Act, 1972, the prescribed authority can either allow the Petition for eviction of the tenant or it can refuse to do so. It cannot enhance the rent under those proceedings. Hence, we set aside the impugned Judgment of the High Court.

10. The appeal is allowed with no order as to costs.