

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

**CIVIL APPEAL NO. 3373 OF 2008
(Arising out of SLP [C] No.4499/2007)**

Madan Mohan Agarwal & Ors.

... Appellants

Vs.

Girish Kumar Chaturvedi & Anr.

... Respondents

ORDER

Leave granted. Heard learned counsel for the parties.

2. The appellant is the tenant and respondent is the landlord. Appellant had filed a CMWP No.14780/2003 before the Allahabad High Court challenging the order of eviction by the appellate authority under U.P.Act 13 of 1972.

3. The learned Single Judge, while admitting the said writ petition, issued an interim direction to the tenant that he should pay an increased rent of Rs.7500 per month instead of Rs.250/- from October, 2006. The court calculated the said rent without the benefit of any evidence merely with reference to the description of the property (five rooms and one hall) by assuming the rent for the hall as Rs.1500/- and the rent for each of the five rooms as Rs.1200/-, in all Rs.7500/- per month. The learned Single Judge also directed that the rent so fixed shall be increased by 10 per cent every five years and that in case of default in payment of rent at the said rate, the landlord can get the accommodation vacated with the help of police.

4. To say the least, all these directions are unwarranted and not authorized by law. It is not open to the High Court to arbitrarily increase the rent by thirty times. When the law provides a specific procedure for fixing or increasing the rent, there cannot be an increase contrary to such procedure.

5. The appeal is therefore allowed and the order dated 11.10.2006 of the High Court in CMWP No.14780/2003 to the extent it directs payment of rent at Rs.7500/- per month is set aside. The appellant (tenant) will continue to pay rent at the agreed rate of Rs.250 per month. Any amount paid at the enhanced rate shall be refunded by the landlord within three months or can be adjusted against future rent by agreement of parties.

.....J.
(R V Raveendran)

.....J.
(Lokeshwar Singh Panta)

New Delhi,
May 5, 2008.