2026:AHC:236418

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 6083 of 2026

Anees Ahmad

…..Petitioner(s)

Versus

Smt Rukaiya Begum and 3 others

…..Respondent(s)

Counsel for Petitioner(s)	:	Jitendra Pratap Singh, Kirti Kumar Nirkhi, Shobhit Saxena
Counsel for Respondent(s)	:	Sikandar Raza

With:

Writ-A No.1227 of 2026
(Anees Ahmad vs. State of UP and 5 Others)

AFR

Court No. - 35

HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.

1. Heard Sri Jitendra Pratap Singh, learned counsel for the petitioner and Sri Sikandar Raza, learned counsel appearing for the respondent-landlady.

2. The present petition under Article 227 of the Constitution of India has been filed assailing the judgment and order dated 18.03.2026 passed by the Additional District Judge, Court No. 9, Kanpur Nagar, in Miscellaneous Civil Appeal No. 38 of 2023 (Smt. Rukaiya Begum v. Anees Ahmad), whereby the appeal preferred by the respondent-landlady under Section 22 of the Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (hereinafter referred to as the 'Act, 1972') was allowed and the order dated 31.02.2023 passed by the Prescribed Authority, rejecting the release application instituted under Section 21(1)(b) of the Act, 1972, was set aside. By the impugned judgment, the appellate court directed the petitioner-tenant to vacate and

hand over vacant possession of the disputed shop to the respondent-landlady within thirty days.

3. Along with the present petition, Writ-A No. 1227 of 2026 (Anees Ahmad v. State of U.P. and others), filed under Article 226 of the Constitution of India, has also been taken up for consideration. By the said petition, the petitioner-tenant has challenged the interlocutory order dated 26.11.2025 passed by the same appellate court in the aforesaid appeal, whereby Application No. 40-*Ga* filed by the respondent-landlady, seeking permission to bring additional evidence on record, was allowed. The application sought to place on record an estimate prepared by an engineer in relation to the expenditure proposed to be incurred on demolition and reconstruction of the disputed premises. It is relevant to notice that the application did not purport to have been filed under Order XLI Rule 27 of the Code of Civil Procedure, 1908. While allowing the application, the appellate court referred to Section 34 of the Act, 1972, which, *inter alia,* confers upon the appellate authority the power to receive evidence on affidavits. The petitioner-tenant has challenged the said order contending that the appellate court could not have permitted additional evidence to be brought on record without following the procedure and satisfying the requirements governing admission of additional evidence under Order XLI Rule 27 of the Code of Civil Procedure, 1908.

4. Both the petitions arise out of the same release proceedings and relate to orders passed in the same appellate proceedings. The challenge raised in Writ-A No. 1227 of 2026 to the order permitting additional evidence has a direct bearing on the consideration of the impugned appellate judgment, inasmuch as the appellate court subsequently relied upon the additional material while allowing the release application. It is, therefore, appropriate that the validity of the order dated 26.11.2025 and the challenge to the final appellate judgment be examined together. Accordingly, both the petitions have been heard together and are being decided by this common judgment.

5. The principal controversy arising in the petition challenging the final appellate judgment relates to the statutory right available to an original tenant under Section 24(2) of the Act, 1972, where release of the tenanted building is allowed under Section 21(1)(b) on the ground that it is in a dilapidated condition and is required for demolition and reconstruction. The question that arises for consideration is whether, while allowing release under Section 21(1)(b), the appellate court was required to examine the proposed reconstruction plan in the context of the statutory right available to the original tenant under Section 24(2), and whether any appropriate directions or safeguards were necessary to ensure that the exercise of such right was not rendered ineffective.

6. The connected Writ-A No. 1227 of 2026 raises a separate but related question concerning the scope of the appellate court's power to receive additional evidence. The issue is whether the reference to Section 34 of the Act, 1972, which provides for receipt of evidence on affidavit, was sufficient to permit the respondent-landlady to bring the engineer's estimate on record at the appellate stage, or whether the admission of such additional evidence was also required to satisfy the conditions prescribed under Order XLI Rule 27 of the Code of Civil Procedure, 1908. The question further requires examination of whether the procedure contemplated for admission and recording of additional evidence was duly followed by the appellate court.

Factual Matrix and Pleadings

7. The respondent-landlady instituted proceedings by filing an application for release under Section 21(1)(b) of the Act, 1972, on 24.11.2018, claiming ownership of the property bearing Municipal Property No. 101/122, Colonelganj, Kanpur Nagar, on the basis of a registered sale deed dated 16.03.2012. The petitioner was occupying a shop situated on the ground floor of the said property, measuring approximately 18 feet × 5.87 feet, at a monthly rent of Rs.100/-.

8. The release application was founded on the assertion that the building, stated to be about 90 to 100 years old, had become dilapidated and required demolition and reconstruction. It was further asserted that

the other tenants occupying shops and portions of the building had vacated their respective premises or had settled their claims, and that the shop occupied by the petitioner remained to be vacated to facilitate the proposed demolition and reconstruction.

9. The petitioner contested the release proceedings by filing a written statement dated 21.01.2021. It was asserted that he was an old tenant and that the disputed shop had been allotted to him by the Additional District Magistrate (Rent Control), Kanpur Nagar, by an allotment order dated 15.04.1993. The petitioner disputed the alleged dilapidated condition of the building and denied that demolition and reconstruction were necessary. It was his case that the disputed shop and the structure supporting it were in a sound condition and could be maintained through ordinary repairs.

10. The Prescribed Authority, by its order dated 21.02.2023, dismissed the release application. Although the relationship of landlord and tenant between the parties was accepted, the Prescribed Authority found that the respondent-landlady had failed to establish compliance with the requirements of Rule 17 of the Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Rules, 1972 (hereinafter referred to as the 'Rules, 1972'). The authority found deficiencies in the material placed on record concerning the physical condition of the building, the estimate of expenditure for demolition and reconstruction, the proposed construction plan and the financial capacity of the landlady to undertake the proposed work.

11. Aggrieved by the order dated 21.02.2023, the respondent-landlady preferred an appeal under Section 22 of the Act, 1972, registered as Appeal No. 38 of 2023. During the pendency of the appeal, she moved an application dated 17.11.2025, Paper No. 40-*Ga*, supported by an affidavit, seeking permission to bring additional documentary evidence on record. It was asserted in the application that the documents sought to be produced, which included an engineering report/estimate relating to the proposed demolition and reconstruction and the income-tax return for the assessment year 2018-19 along with the connected filing

documents, had been prepared or were available prior to the institution of the release proceedings but could not be filed due to an oversight on the part of the previous counsel. The documents sought to be brought on record were enumerated in the accompanying list, Paper No. 40-*Ga*.

12. The petitioner opposed the application by filing objections. It was contended, *inter alia,* that the documents sought to be introduced were already available with the respondent-landlady and that she had been afforded sufficient opportunity to produce them before the Prescribed Authority. The petitioner asserted that the application was an attempt to fill up the lacunae in the evidence, particularly when the release application had been dismissed on account of the failure to establish the requirements of Rule 17 of the Rules, 1972. The genuineness and reliability of the estimate sought to be brought on record were also questioned. The appellate court, by order dated 26.11.2025, allowed the application, referring to the powers available to it under Section 34 of the Act, 1972, including the power to receive evidence on affidavit, and observing that the documents sought to be produced were relevant for proper adjudication of the appeal. Consequently, the documents enumerated in Paper No. 40-*Ga* were directed to be taken on record.

13. The petitioner challenged the aforesaid order dated 26.11.2025 before this Court by filing Writ-A No. 1227 of 2026. It appears from the proceedings before the appellate court that the pendency of the said writ petition was brought to its notice, whereupon the appeal was adjourned on 16.03.2026 and was taken up again on 18.03.2026. No interim order had, however, been passed by this Court staying either the operation of the order dated 26.11.2025 or further proceedings in the appeal. The appellate court accordingly proceeded to decide the appeal and, by the impugned judgment and order dated 18.03.2026, allowed the same, set aside the order dated 21.02.2023 passed by the Prescribed Authority and directed the petitioner to vacate the disputed shop within thirty days.

14. While allowing the appeal, the appellate court considered the engineering report dated 31.08.2015, the municipal inspection report dated 15.10.2017 and the additional documentary evidence permitted to

be brought on record by its order dated 26.11.2025. On the basis of the material so considered, it concluded that the building was approximately 90 to 100 years old, was in a dilapidated condition and required demolition and reconstruction. It further held that the respondent-landlady had established the requirements of Rule 17 of the Rules, 1972, relating to the estimate of expenditure, her financial capacity and the proposed construction plan.

Rival Submissions

15. Learned counsel for the petitioner has assailed the orders under challenge in the two petitions on two principal grounds. Firstly, it is contended that the appellate court committed an error in permitting the respondent-landlady to adduce additional evidence at the appellate stage, particularly when the appeal had already reached the stage of final arguments and the evidence sought to be introduced was intended to overcome the deficiencies in the case noticed by the Prescribed Authority. Secondly, it is contended that while allowing release under Section 21(1)(b) of the Act, 1972, the appellate court failed to consider the statutory right available to the petitioner under Section 24(2) of the Act, 1972.

16. With regard to the order dated 26.11.2025, learned counsel submits that Section 34 of the Act, 1972, does not confer an unrestricted power upon the appellate court to admit additional evidence. It is contended that the admissibility of additional evidence at the appellate stage is governed by the principles embodied in Order XLI Rule 27 of the Code of Civil Procedure, 1908, and that additional evidence cannot be permitted unless the conditions stipulated therein are satisfied. An omission or oversight on the part of the previous counsel, it is submitted, does not by itself furnish a ground for permitting a party to introduce additional evidence at the appellate stage. Learned counsel further submits that the respondent-landlady had sufficient opportunity to produce the estimate relating to the expenses of demolition and reconstruction before the Prescribed Authority, but failed to do so. The application for bringing additional evidence on record was moved only

after the release application had been rejected. The appellate court, therefore, could not have permitted the respondent-landlady to fill up the lacunae in her case by introducing evidence at the appellate stage.

17. Learned counsel further contends that the provisions of Sections 21(1)(b) and 24(2) of the Act, 1972, read with Rule 17 of the Rules, 1972, are required to be construed conjointly. According to learned counsel, before allowing release of a building for demolition and reconstruction, the authority concerned is required to examine whether the proposed reconstruction would leave the statutory right of the original tenant under Section 24(2) capable of being exercised and to ensure that the proposed construction scheme does not render such right ineffective.

18. It is further submitted that the appellate court, despite examining the proposed construction plan and recording findings regarding compliance with Rule 17, failed to consider whether the proposed plan made adequate provision for safeguarding the petitioner's right under Section 24(2). No finding has been recorded as to whether the respondent-landlady had furnished any undertaking to carry out the reconstruction within a reasonable period and to ensure that the petitioner's claim for allotment in the newly constructed building could be considered in accordance with the statutory provisions.

19. Learned counsel further submits that, during the pendency of the proceedings, the petitioner-tenant has already been evicted from the premises in question and the respondent-landlady has demolished the building. In such circumstances, the question of applicability of Section 24(1) of the Act, 1972, does not arise at this stage, and the statutory right available to the petitioner under Section 24(2) assumes significance. It is, accordingly, submitted that appropriate directions be issued to the competent authority to ensure that the petitioner's statutory right under Section 24(2) of the Act, 1972, is duly protected and considered in accordance with law.

20. In support of the aforesaid submissions, learned counsel for the petitioner has placed reliance upon the judgments of this Court in **Riazur Rahman Khan v. Second Additional District Judge, Rampur**[1]**; Rafeeq Ahmad v. Mohd. Farooq and others**[2]**; Karamat Ullah v. District Judge, Kanpur and others**[3]; and **Sanjay Bhardwaj @ Bablu v. Dinesh Chandra Gupta and others**[4].

21. Learned counsel appearing for the respondent-landlady, on the other hand, has supported both the orders under challenge. With regard to the order dated 26.11.2025, it is submitted that the appellate court rightly exercised its powers under Section 34 of the Act, 1972, in permitting additional evidence to be brought on record. The estimate relating to the expenses of demolition and reconstruction was relevant for determining compliance with Rule 17 of the Rules, 1972, and its non-production before the Prescribed Authority was attributable to an oversight on the part of the previous counsel. The appellate court, having considered the relevance of the documents and their necessity for proper adjudication of the appeal, rightly permitted them to be brought on record.

22. Learned counsel for the respondent-landlady further submits that the appellate court duly considered the material available on record, including the engineering report dated 31.08.2015, the municipal inspection report dated 15.10.2017 and the additional documentary evidence brought on record pursuant to the order dated 26.11.2025. On the basis of the aforesaid material, the appellate court rightly concluded that the building was in a dilapidated condition and required demolition and reconstruction. The findings recorded by the appellate court regarding compliance with the requirements of Rule 17 are, therefore, sought to be sustained.

23. With regard to the petitioner's claim under Section 24(2) of the Act, 1972, learned counsel for the respondent-landlady submits that the inquiry under Section 21(1)(b), read with Rule 17, is confined to

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1 (2006) 63 ALR 13
2 (2018) 129 ALR 157
3 (2000) 2 ARC 212
4 (2019) 136 ALR 606

examining the statutory requirements governing release of a building on the ground of demolition and reconstruction. The right contemplated under Section 24(2), it is contended, is available to the original tenant to be exercised before the District Magistrate after demolition and reconstruction of the building, subject to fulfilment of the conditions prescribed under the Act and the Rules. It is, accordingly, argued that the absence of a separate finding regarding the petitioner's claim under Section 24(2), or of an express undertaking by the landlady in that regard, would not by itself invalidate the order allowing release, particularly when the petitioner would remain entitled to pursue the statutory remedy in accordance with law.

24. Learned counsel for the respondent-landlady does not dispute the subsequent developments with regard to the premises in question, particularly that possession thereof has been taken over by the respondent-landlady and the existing building has already been demolished. It is submitted that, upon construction of a new building on the site, the petitioner-tenant would be entitled to invoke the statutory remedy available under Section 24(2) of the Act, 1972, in accordance with law. It is, accordingly, contended that the petitioner's statutory rights, if otherwise available, would remain protected under the aforesaid provision.

Questions for Determination

25. In the light of the rival submissions advanced on behalf of the parties and the controversy arising in the two connected petitions, the following questions arise for consideration:

(i) Whether the appellate court was justified in permitting the respondent-landlady to adduce additional evidence at the appellate stage by allowing Paper No. 40-*Ga*, in exercise of its powers under Section 34 of the Act, 1972, and whether such exercise of power was required to satisfy the conditions prescribed under Order XLI Rule 27 of the Code of Civil Procedure, 1908. If so, whether those conditions were fulfilled in the present case.

(ii) Whether the appellate court, while allowing release of the disputed building under Section 21(1)(b) of the Act, 1972, was required to examine whether the proposed demolition and reconstruction would frustrate or render ineffective the statutory right available to the original tenant under Section 24(2) of the Act, 1972.

(iii) Whether the right conferred upon the original tenant under Section 24(2) is merely a subsequent statutory remedy to be independently pursued before the District Magistrate after reconstruction of the building, or whether its effective preservation is also a relevant consideration while adjudicating an application for release under Section 21(1)(b) of the Act, 1972.

26. Since the connected petitions arise out of different orders passed at successive stages of the same appellate proceedings, this Court considers it appropriate to examine the controversy in a sequential manner. The Court shall first notice the statutory framework governing the proceedings, including the provisions regulating the powers of the appellate authority and the provisions governing release of a building under Section 21(1)(b), with particular reference to the protection afforded to the original tenant under Section 24(2) of the Act, 1972. The Court shall thereafter examine the legality of the order dated 26.11.2025 permitting additional evidence to be brought on record, including the applicability and requirements of Order XLI Rule 27 of the Code of Civil Procedure, 1908, and the extent to which the appellate court could exercise its powers under Section 34 of the Act, 1972. Finally, the Court shall consider the effect of the aforesaid conclusions upon the impugned appellate judgment dated 18.03.2026 and determine the relief to which the parties may be entitled.

Statutory Provisions

27. The controversy involved in the connected petitions requires consideration of two distinct, though related, aspects of the statutory scheme under the Act, 1972. The first concerns the powers of the appellate authority while hearing an appeal under Section 22, particularly its power to receive additional evidence. The second relates

to the release of a building under Section 21(1)(b) and the statutory protection afforded to the original tenant under Section 24(2). The relevant provisions are noticed below.

A. Powers of the Appellate Authority and Admission of Additional Evidence

27. Section 22 of the Act, 1972 provides for an appeal against an order passed under Section 21 or Section 24. It reads as follows:

> **"22. Appeal.—** Any person aggrieved by an order under Section 21 or Section 24 may within thirty days from the date of the order prefer an appeal against it to the District Judge, and in other respects, the provisions of Section 10 shall *mutatis mutandis* apply in relation to such appeal."

Section 10(2), which is thus made applicable to an appeal under Section 22, provides as follows:

> **"(2)** The Appellate Authority may confirm, vary or rescind the order, or remand the case to the District Magistrate for rehearing, and may also take any additional evidence, and pending its decision, stay the operation of the order under appeal on such terms, if any, as it thinks fit."

28. Section 34 of the Act, 1972, which deals with the powers of the various authorities and the procedure to be followed by them, is also relevant. The material provisions thereof read as follows:

> **"34. Powers of various authorities and procedure to be followed by them.—**
> (1) The District Magistrate, the Prescribed Authority or any Appellate Authority shall for the purposes of holding any inquiry or hearing any appeal or revision under this Act have the same powers as are vested in the Civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely—
> ...
> (b) receiving evidence on affidavits;
> ...
> (g) any other matter which may be prescribed.
> ...
> (7) The District Magistrate, the Prescribed Authority or the Appellate or Revisional authority shall record reasons for every order made under this Act.
> (8) For the purposes of any proceedings under this Act and for purposes connected therewith the said authorities shall have such other powers and shall follow such procedure as may be prescribed."

29. Section 38 of the Act, 1972, which gives overriding effect to its provisions over inconsistent provisions of the Transfer of Property Act and the Code of Civil Procedure, 1908, reads as follows:

> **"38. Act to override Transfer of Property Act and Civil Procedure Code.—** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Transfer of Property Act, 1882, or in the Code of Civil Procedure, 1908."

30. The provisions governing the production of additional evidence before an appellate court under the Code of Civil Procedure, 1908, are contained in Order XLI Rule 27, which reads as follows:

> **"27. Production of additional evidence in Appellate Court.—**
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> (1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if—
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> (a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted; or
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> (aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed; or
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> (b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause,
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> the Appellate Court may allow such evidence or document to be produced, or witness to be examined.
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> (2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission."

Order XLI Rules 28 and 29 of the Code further prescribe the manner in which additional evidence, once permitted, is to be taken and the points to which such evidence is to be confined.

B. Release on the Ground of Demolition and Reconstruction and the Tenant's Right of Re-entry

31. In order to appreciate the controversy relating to the petitioner's right under Section 24(2), it would be appropriate to notice the provisions governing release of a building on the ground of demolition and reconstruction. Section 21(1)(b) of the Act, 1972 reads as follows:

"Section 21. Proceeding for release of building under occupation of tenant.—

(1) The Prescribed Authority may, on an application of the landlord in that behalf, order the eviction of a tenant from the building under tenancy or any specified part thereof if it is satisfied that any of the following grounds exists, namely—

...

(b) that the building is in a dilapidated condition and is required for purposes of demolition and new construction."

32. Section 24 of the Act, 1972, which provides for the option of re-entry by the tenant, reads as follows:

"Section 24. Option of re-entry by tenant.—

(1) Where a building is released in favour of the landlord and the tenant is evicted under Section 21 or on appeal under Section 22, and the landlord either puts or causes to be put into occupation thereof any person different from the person for whose occupation according to the landlord's representation, the building was required, or permits any such person to occupy it, or otherwise puts it to any use other than the one for which it was released, or as the case may be, omits to occupy it within one month or such extended period as the Prescribed Authority may for sufficient cause allow from the date of his obtaining possession or, in the case of a building which was proposed to be occupied after some construction or reconstruction, from the date of completion thereof, or in the case of a building which was proposed to be demolished, omits to demolish it within two months or such extended period as the Prescribed Authority may for sufficient cause allow from the date of his obtaining possession, then the Prescribed Authority or, as the case may be, the District Judge, may, on an application in that behalf within three months from the date of such act or omission, order the landlord to place the evicted tenant in occupation of the building on the original terms and conditions, and on such order being made, the landlord and any person who may be in occupation thereof shall give vacant possession of the building to the said tenant, failing which, the Prescribed Authority shall put him into possession and may for that purpose use or cause to be used such force as may be necessary.

(2) Where the landlord after obtaining a release order under clause (b) of sub-section (1) of section 21 demolishes a building and constructs a new building or buildings on its site, then the District Magistrate may, on an application being made in that behalf by the original tenant within such time as may be prescribed, allot to him the new building or such one of them as the District

Magistrate after considering his requirements thinks fit, and thereupon that tenant shall be liable to pay as rent for such building an amount equivalent to one per cent per month of the cost of construction thereof (including the cost of demolition of the old building but not including the value of the land) and the building shall, subject to the tenant's liability to pay rent as aforesaid, be subject to the provisions of this Act, and where the tenant makes no such application or refuses or fails to take that building on lease within the time allowed by the District Magistrate, or subsequently ceases to occupy it or otherwise vacates it, that building shall also be exempt from the operation of this Act for the period or the remaining period, as the case may be, specified in sub-section (2) of section 2."

33. Rule 17 of the Rules, 1972 prescribes the matters requiring satisfaction of the Prescribed Authority before an order of release is passed under Section 21(1)(b) on the ground of demolition and new construction. It reads as follows:

"17. Application for release on the ground of demolition and new construction [Sections 21(1)(b) and 34(8)].— Before allowing an application for release of a building under Section 21(1)(b) on the ground that it is required for purposes of demolition and new construction, the Prescribed Authority shall satisfy itself—

(i) that the building requires demolition;

(ii) that a proper estimate of expenditure over the proposed demolition and new construction has been prepared;

(iii) that a plan has been duly prepared and conforms to the bye-laws or regulations of the local authority or other statutory authority under any law in that behalf for the time being in force; and

(iv) that the landlord has the financial capacity for the proposed demolition and new construction."

34. The period within which an original tenant may invoke the remedy under Section 24(2) is prescribed by Rule 20 of the Rules, 1972, which reads as follows:

"20. Application for re-allotment [Section 24(2)].—

(1) An application by a tenant under sub-section (2) of Section 24 for allotment of a new building or any one of them shall be made within one month from the date on which the construction of the building sought to be allotted is complete.

(2) The application shall also state the extent of the tenant's requirements regarding accommodation.

> Explanation.—In this rule, the date of completion of construction has the same meaning as in the Explanation (a) of sub-section (2) of Section 2."

Challenge to the Order Dated 26.11.2025 Permitting Additional Evidence

35. Since the validity of the order dated 26.11.2025 permitting additional evidence has a bearing upon the material considered by the appellate court while deciding the appeal, it would be appropriate to examine the challenge raised in Writ-A No. 1227 of 2026 before proceeding to consider the effect of the additional evidence upon the final appellate judgment.

36. The power of the appellate authority to receive additional evidence in an appeal under Section 22 of the Act, 1972 flows from Section 22 read with sub-section (2) of Section 10. The latter provision expressly empowers the appellate authority to take additional evidence while deciding an appeal. Section 34(1)(b), on the other hand, confers upon the authorities under the Act the power to receive evidence on affidavits. The two provisions operate in their respective fields and cannot be treated as interchangeable. The reference made by the appellate court to Section 34 while passing the order dated 26.11.2025 must, therefore, be examined in the context of the substantive power available to it under Section 22 read with Section 10(2).

37. The manner in which the power to receive additional evidence is to be exercised came up for consideration before this Court in **Kishan Kumar Agrawal v. First Additional District and Sessions Judge and others**[5]**,** wherein it was observed that the power conferred upon the appellate authority to receive additional evidence is not an unrestricted one and that the principles governing Order XLI Rule 27 of the Code of Civil Procedure are relevant in regulating its exercise.

38. The matter was subsequently examined in detail in **Govind Prasad (D) and others v. Mukut Bihari**[6]. This Court held that the appellate authority, by virtue of Section 22 read with Section 10(2) of the Act,

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5 1978 SCCOnline All 285

6 Writ-A No. 5095 of 2021 decided on 16.07.2021

1972, has the power to receive additional evidence, but the exercise of such power is to be regulated by the principles of Order XLI Rule 27 of the Code of Civil Procedure, 1908, on the analogy of the said provision. It was clarified that the provisions of Order XLI Rule 27 do not apply *proprio vigore*, but furnish the appropriate guiding principles for exercise of the statutory discretion vested in the appellate authority.

39. The scope of Section 10(2) was further considered in **Rajkumar v. Nasir Ahmad and others**[7]. This Court held that Section 10(2) is more liberal than Order XLI Rule 27, but the power to take additional evidence is confined to receiving evidence supplementary to the material already available on record. It does not authorise the appellate authority to assume the role of the court of first instance. Where an issue has not been adjudicated by the Prescribed Authority for want of evidence, the appropriate course may be to remand the matter for consideration at the original stage rather than undertaking a fresh fact-finding exercise at the appellate stage.

40. The power under Section 10(2), therefore, is not an unrestricted one. The appellate authority must consider the relevance and nature of the additional material, the reason for its non-production before the Prescribed Authority, whether its reception is necessary for effective adjudication of the appeal, and whether the opposite party can be afforded an adequate opportunity to meet it. The mere circumstance that a document may assist a party in overcoming an adverse finding does not, by itself, either justify or prohibit its admission. The exercise must be governed by judicial discretion, having regard to the statutory purpose of the appeal and the requirements of fairness.

41. The principles underlying Order XLI Rule 27 of the Code of Civil Procedure are also relevant in this regard. The provision contemplates three specified circumstances in which additional evidence may be received, namely, where evidence which ought to have been admitted was refused by the court below; where, despite exercise of due diligence, the evidence was not within the knowledge of the party or could not

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7 2024 SCC OnLine All 8132

have been produced at the relevant stage; or where the appellate court itself requires such evidence to enable it to pronounce judgment or for some other substantial cause. The discretion is judicial in nature and is not intended to afford a litigating party an unrestricted opportunity to supplement deficiencies in its case after an adverse decision.

42. The Supreme Court in **Union of India v. Ibrahim Uddin**,[8] has explained that the necessity for receiving additional evidence under clause (b) must arise from the appellate court's own assessment of the material available on record. The provision cannot be invoked merely to enable a party to produce evidence which would assist it in securing a particular result. The principles have also been reiterated in **Gobind Singh and others v. Union of India and others**,[9] wherein the Supreme Court emphasised that additional evidence cannot be admitted as a matter of course or merely to fill gaps in the case of a party.

43. In the present case, the application dated 17.11.2025, Paper No. 40-*Ga*, was supported by an affidavit of the respondent-landlady. The explanation furnished was that the documents sought to be produced had been prepared or were available prior to institution of the release proceedings but could not be filed before the Prescribed Authority on account of an oversight on the part of the previous counsel. The documents included an engineer's report/estimate relating to demolition and reconstruction and the income-tax return for the assessment year 2018-19, along with the connected filing documents. The petitioner opposed the application, contending that the documents were already available with the respondent-landlady and that sufficient opportunity had been afforded to her to produce them before the Prescribed Authority.

44. It is true that the explanation relating to an oversight on the part of the previous counsel, by itself, would not establish that the respondent-landlady was prevented, despite exercise of due diligence, from producing the documents before the Prescribed Authority. The documents were not stated to have come into existence subsequently or

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8. (2012) 8 SCC 148
9. (2026) 4 SCC 130

to have become available to the respondent-landlady only after dismissal of the release application. The explanation so furnished cannot, therefore, be treated as sufficient by itself to satisfy the requirement corresponding to clause (aa) of Rule 27 of Order XLI of the Code of Civil Procedure.

45. The matter, however, does not rest solely upon the explanation furnished by the respondent-landlady. Section 10(2) of the Act, 1972 confers an independent statutory power upon the appellate authority to receive additional evidence. The exercise of such power may also be warranted where, upon examination of the material already available, the appellate court considers additional evidence necessary for effective adjudication of the controversy. The engineer's estimate sought to be introduced has a direct bearing upon the requirement of a proper estimate of expenditure prescribed under Rule 17(ii) of the Rules, 1972. Similarly, the income-tax return and the connected documents have a bearing upon the financial capacity of the respondent-landlady, which is one of the matters requiring consideration under Rule 17(iv).

46. A perusal of the order dated 26.11.2025 indicates that the appellate court noticed the rival submissions, considered the application and the objections filed by the petitioner, and took note of the nature of the documents sought to be brought on record. It recorded that the documents were relevant to the controversy and deserved to be taken on record for proper adjudication of the appeal. The order was, therefore, not passed merely on the ground that the previous counsel had omitted to file the documents, but also proceeded upon the appellate court's assessment of their relevance to the statutory requirements governing the release application.

47. It is further relevant that, while allowing the application, the appellate court fixed the matter for 01.12.2025 for rebuttal evidence, if any, and further arguments. The petitioner was thus afforded an opportunity to meet the additional material and to dispute its correctness and evidentiary value. The direction to permit rebuttal evidence was relevant to ensuring that the admission of additional material did not

result in an unfair advantage to the respondent-landlady. It is, however, made clear that the opportunity to rebut evidence does not, by itself, dispense with the requirement of a lawful basis for its admission. The order has to be sustained on the basis of the appellate court's statutory power and the reasons recorded for exercising it.

48. It is necessary in this context to distinguish between taking a document on record as additional evidence and accepting its contents as proved. The mere admission of a document does not establish its genuineness, authenticity or the truth of the facts stated therein. The evidentiary value of the engineer's report/estimate and the financial documents was, therefore, required to be assessed by the appellate court after considering the objections raised by the petitioner and the rebuttal evidence, if any, adduced by him. The admission of the documents did not dispense with the requirement of evaluating their evidentiary worth or recording appropriate findings before placing reliance upon them.

49. The subsequent course of the proceedings is also relevant. After the order dated 26.11.2025, the appellate court afforded an opportunity to the petitioner to produce rebuttal evidence and proceeded to hear the appeal. The appeal was ultimately decided by judgment and order dated 18.03.2026, whereby the appellate court allowed the release application and directed the petitioner to vacate the disputed premises. The said judgment is itself under challenge in Article 227 Petition No. 6083 of 2026. Consequently, while examining the legality of the order dated 26.11.2025 in the present writ petition, it would not be appropriate to undertake an independent appraisal of the evidentiary value of the documents or to adjudicate upon the correctness of the findings subsequently recorded by the appellate court. Those matters fall for consideration in the connected petition challenging the final appellate judgment.

50. Having regard to the power conferred upon the appellate authority under Section 22 read with Section 10(2) of the Act, 1972, the principles governing the exercise of such power, and the reasons recorded in the order dated 26.11.2025, this Court is not persuaded to hold that the

appellate court acted without jurisdiction in permitting the additional documents to be brought on record. The omission to produce the documents before the Prescribed Authority on account of an alleged oversight would not, by itself, justify their admission. Nevertheless, the appellate court was competent to examine whether their reception was necessary for proper adjudication of the statutory requirements involved in the appeal. The opportunity afforded to the petitioner to produce rebuttal evidence was also a relevant consideration in assessing the fairness of the procedure adopted. The question whether the appellate court thereafter correctly appreciated the additional material and whether the findings recorded in the judgment dated 18.03.2026 are sustainable on the basis of the entire evidence on record shall be examined separately while considering the challenge to that judgment. Accordingly, no ground for interference with the order dated 26.11.2025 is made out in Writ-A No. 1227 of 2026.

Statutory Scheme and Interrelationship of Sections 21(1)(b) and 24(2).

51. A reading of Section 24 of the Act, 1972 indicates that sub-sections (1) and (2) contemplate distinct situations and provide for different remedies. Sub-section (1) deals with cases where, after obtaining release of a building and evicting the tenant, the landlord acts contrary to the purpose for which the release was granted, puts the building to an unauthorized use, or fails to occupy or demolish it within the period prescribed therein. In such circumstances, the Prescribed Authority or the District Judge, as the case may be, is empowered, upon an application made within the prescribed period, to direct restoration of the evicted tenant to the building on the original terms and conditions. Sub-section (2), on the other hand, specifically deals with a situation where the landlord, after obtaining an order of release under Section 21(1)(b), demolishes the building and constructs a new building or buildings on its site.

52. In the latter situation, Section 24(2) confers upon the original tenant a statutory right to apply to the District Magistrate for allotment

of the newly constructed building. The District Magistrate may allot to the original tenant the new building or, where more than one building has been constructed, such one of them as the District Magistrate, after considering the tenant's requirements, thinks fit. Upon such allotment, the tenant becomes liable to pay rent at the rate of one per cent per month of the cost of construction, including the cost of demolition of the old building but excluding the value of the land. The right to seek such allotment thus arises in consequence of an order of release under Section 21(1)(b), followed by demolition and construction of a new building or buildings on the site.

53. The time and manner for invoking the remedy under Section 24(2) are prescribed by Rule 20 of the Rules, 1972, noticed above. The original tenant is required to approach the District Magistrate within one month from the date of completion of construction of the building sought to be allotted and to specify the extent of his requirements regarding accommodation. The statutory scheme, therefore, contemplates that the tenant shall exercise the right by making an application within the prescribed period, whereupon the District Magistrate shall consider the question of allotment in accordance with Section 24(2) and the Rules.

54. Rule 17 of the Rules, 1972, which governs release of a building under Section 21(1)(b), also assumes significance in this context. Before allowing an application for release on the ground of demolition and new construction, the Prescribed Authority is required to satisfy itself that (i) the building requires demolition; (ii) a proper estimate of expenditure over the proposed demolition and new construction has been prepared; (iii) a plan has been duly prepared and conforms to the bye-laws or regulations of the local authority or other statutory authority; and (iv) the landlord has the financial capacity for the proposed demolition and new construction. These requirements ensure that an order of release is not passed without the necessary material establishing the necessity for demolition and the feasibility of the proposed reconstruction.

55. Section 21(1)(b), Section 24(2) and Rule 17 of the Rules, 1972, thus operate at different stages of the same statutory process. Section

21(1)(b) provides the ground on which the tenant may be evicted; Rule 17 prescribes the matters requiring satisfaction of the Prescribed Authority before release is allowed; and Section 24(2), read with Rule 20, provides the original tenant an opportunity to seek allotment after demolition and reconstruction have taken place. The right under Section 24(2) is, therefore, not an independent right unconnected with the proceedings under Section 21(1)(b), but a statutory consequence attached to an order of release passed on that ground and the subsequent reconstruction of the building.

56. The statutory arrangement seeks to balance the landlord's right to obtain release of a building which is in a dilapidated condition and requires demolition and new construction against the protection afforded to the original tenant who is required to vacate the existing premises for that purpose. The tenant is not conferred an automatic right to occupy a particular portion of the reconstructed building. Nevertheless, the right to seek allotment under Section 24(2) is a statutory protection and is not dependent upon the willingness or consent of the landlord. The question of allotment, upon an application being made in accordance with law, is to be considered by the District Magistrate having regard to the requirements of the original tenant.

57. Section 21(1)(b) and Section 24(2), therefore, cannot be construed in isolation. They are required to be read harmoniously with Rule 17 so that the statutory right made available to the original tenant under Section 24(2) is not rendered ineffective by the manner in which the proposed reconstruction is contemplated. At the same time, such an interpretation cannot result in transferring to the Prescribed Authority the power of allotment which the statute has expressly vested in the District Magistrate. The extent to which the proposed construction plan is required to be scrutinised at the stage of release, and the nature of the safeguards that may be necessary to protect the statutory right of the original tenant, must accordingly be considered in the light of the judicial pronouncements dealing with these provisions.

Judicial Precedents on Conjoint Interpretation

58. The interrelationship between Section 21(1)(b), Section 24(2) and Rule 17 of the Rules, 1972, has been considered by this Court in a number of decisions. These decisions recognise that the statutory right available to the original tenant under Section 24(2) is required to be taken into consideration while examining an application for release on the ground of demolition and reconstruction.

59. In **Karamat Ullah,** this Court considered the provisions of Section 21(1)(b), Section 24(2) and Rule 17 conjointly. The Court observed that while examining an application for release under Section 21(1)(b), the authority concerned cannot altogether overlook the right of re-entry available to the tenant under Section 24(2). The requirements of Rule 17, though relating to the proposed demolition and reconstruction, are required to be considered in the context of the statutory protection afforded to the original tenant.

60. In the aforesaid case, the proposed construction plan contemplated utilisation of the site occupied by the tenant for construction of a latrine, bathroom, fuel storage and a portion of the courtyard, without making any provision for safeguarding the tenant's right under Section 24(2). The Court held that the authority concerned was required to examine the proposed construction plan minutely to ensure that the tenant's option of re-entry was not defeated or frustrated. It was further held that where the proposed plan made no provision for securing that right, the tenant would stand deprived of the statutory protection which he could otherwise exercise upon completion of the new construction, and an order of release under Section 21(1)(b) could not lawfully be made.

61. The question of prescribing a reasonable period for completion of reconstruction was considered in **Riazur Rahman Khan.** The Court noticed that although the Act does not prescribe a general period for completion of new construction after obtaining possession, the omission could be addressed by imposing an appropriate condition while allowing release. Having allowed the writ petition and restored the order of the

Prescribed Authority, the Court directed the landlords to reconstruct the shop within six months from the date of obtaining possession and to offer it to the tenants at the rent determined in accordance with Section 24(2) of the Act, 1972.

62. The question of safeguarding the tenant's right under Section 24(2) also arose in **Rafeeq Ahmad**. In that case, the tenant had objected that the proposed reconstruction plan did not make any provision for his re-entry into the newly constructed building. In response, learned counsel for the landlord relied upon paragraph 27 of the release application, wherein the landlord had specifically stated that if the tenant desired to take the newly constructed accommodation on rent, the same would be offered to him in accordance with law. The Court took note of the said statement and observed that the undertaking continued to bind the landlord. In view thereof, the objection that the right under Section 24(2) had not been considered by the courts below was not accepted.

63. The Court also considered the tenant's request for a time-bound direction for reconstruction and for providing him an opportunity to occupy one-room accommodation in the reconstructed building. Learned counsel for the landlord expressed no objection to the imposition of such a condition. The Court, while dismissing the writ petition, directed the landlord to complete reconstruction in accordance with the plan sanctioned by the competent authority within one year from the date of demolition and to offer one-room accommodation to the tenant at the prevalent market rate of rent before offering it on sale or rent to any other person. The decision thus illustrates the relevance of an undertaking furnished by the landlord and the power of the Court to impose appropriate conditions for safeguarding the tenant's statutory interest, having regard to the circumstances of the case and the stand taken by the landlord.

64. The nature and scope of the right conferred by Section 24(2) were considered in detail by this Court in **Sanjay Bhardwaj @ Bablu and another**. The principal controversy in that case concerned the right of the legal representatives of a deceased original tenant to pursue proceedings

under Section 24(2). While examining the statutory scheme, the Court held that the right of re-entry under Section 24(2) is a consequence of an order of release under Section 21(1)(b), and that proceedings under Section 24(2) are to be viewed as a continuation of the proceedings initiated under Section 21(1)(b). The following observations are relevant:

> "43. The right of re-entry of a tenant under Section 24(2) is therefore clearly a consequence of the order of release having been passed under Section 21(1)(b), and the proceedings under Section 24(2) are to be seen in continuation of the proceedings for eviction under Section 21(1)(b), as per the scheme of the Act."
>
> "54. In the present case the legislative intent in granting a special privilege or a lien to the evicted tenant by way of a right to re-entry under Section 24(2) is clear from a plain reading of the provision which indicates that the right under Section 24(2) flows from the proceedings initiated under Section 21(1)(b) in terms of which the tenant had been evicted from the building on the ground that the same was in a dilapidated condition and was required for the purpose of demolition and new construction."
>
> "55. The provisions of Section 24(2) and 21(1)(b) are thus required to be read conjointly and have to be construed with reference to one another so as to make the same consistent with the object sought to be achieved i.e. providing a protection to the original tenant who had been evicted solely for the reason that the building was in a dilapidated condition and was required to be demolished and reconstructed without either the bona fide need of the landlord being considered or the comparative hardship of the landlord vis-a-vis the tenant being tested."
>
> "56. A combined reading of the provisions under Section 24(2) with Section 21(1)(b) would clearly show that the proceedings under Section 24(2) are a continuation of the proceedings for eviction under Section 21(1)(b) and provide a logical culmination to the said proceedings."

65. The aforesaid exposition makes it clear that the right of re-entry conferred upon the original tenant under Section 24(2) is a direct statutory consequence of an order of release passed under Section 21(1)(b). The proceedings under Section 24(2) are not an independent or detached remedy arising subsequent to eviction, but constitute a continuation of the proceedings initiated under Section 21(1)(b) and

provide a logical culmination to the same. The legislative intent underlying this arrangement is to afford protection to an original tenant who is evicted solely on the ground that the building is in a dilapidated condition and requires demolition and reconstruction, without examination of the landlord's bona fide need or comparative hardship. Sections 21(1)(b) and 24(2) must, therefore, be read conjointly and construed with reference to each other, so that the right conferred upon the original tenant is not reduced to a matter of discretion of the landlord or rendered ineffective in the process of demolition and reconstruction.

66. The aforesaid decisions, when read together, indicate that the right conferred under Section 24(2) has a bearing upon the adjudication of an application for release under Section 21(1)(b). In particular, **Karamat Ullah** directly lays down that the proposed reconstruction plan must be examined to ensure that the tenant's statutory option is not defeated. **Riazur Rahman Khan** and **Rafeeq Ahmad** further demonstrate that appropriate conditions relating to the time for reconstruction and the tenant's opportunity to seek accommodation in the reconstructed building may be imposed, depending upon the facts and circumstances of the case.

67. It is, however, necessary to maintain the distinction between the jurisdiction exercised at the stage of release and the jurisdiction conferred upon the District Magistrate under Section 24(2). The Prescribed Authority or the appellate court, while deciding the release application, does not itself undertake the exercise of allotment contemplated under Section 24(2). That exercise is to be undertaken by the District Magistrate upon an application being made by the original tenant within the time prescribed under Rule 20 of the Rules, 1972. The obligation at the stage of release is to examine the proposed reconstruction in the context of the statutory right and to ensure that the plan does not render the exercise of that right impossible or illusory.

68. Consequently, while the original tenant cannot claim an automatic right to a particular unit or insist that the reconstructed accommodation must necessarily be identical in area or dimensions to the premises

previously occupied by him, the proposed reconstruction cannot be permitted to proceed in a manner that excludes any meaningful possibility of his seeking allotment under Section 24(2). The authority concerned is, therefore, required to examine the plan and the material on record from this perspective and, where necessary, impose appropriate conditions to protect the statutory right, without encroaching upon the jurisdiction of the District Magistrate to consider and decide the application for allotment in accordance with law.

Scope and Effect of the Statutory Protection under Section 24(2)

69. Before examining the application of the aforesaid principles to the facts of the present case, it would be appropriate to notice the underlying object of rent-control legislation. Such legislation seeks to regulate the relationship between landlords and tenants by providing protection against arbitrary eviction, while at the same time recognising the legitimate rights and interests of property owners. The statutory scheme is intended to maintain a balance between the landlord's right to enjoy and develop his property and the tenant's interest in securing protection against eviction except in accordance with the grounds and procedure prescribed by law. The provisions of the Act, 1972 are, therefore, required to be construed in a manner which gives meaningful effect to the safeguards incorporated therein, without unduly restricting the rights conferred upon the landlord.

70. The protection afforded to a tenant under the Act, 1972 does not operate as an absolute restriction upon the landlord's right to recover possession. The legislature has recognised that circumstances may arise where the condition of a building necessitates its demolition and reconstruction. Section 21(1)(b) accordingly enables the landlord to seek release of a building which is in a dilapidated condition and is required for demolition and new construction. At the same time, the legislature has made a specific provision in Section 24(2) for the benefit of the original tenant who is evicted on that ground, by conferring upon him a statutory right to seek allotment in the newly constructed building. The

two provisions thus reflect a legislative balance between the landlord's right to undertake reconstruction and the original tenant's statutory protection.

71. The significance of Section 24(2) lies in the fact that eviction under Section 21(1)(b) is ordered for a purpose which contemplates demolition of the existing building and construction of a new building on its site. The statutory process of demolition and reconstruction is not intended, by itself, to deprive the original tenant of the opportunity expressly made available to him under Section 24(2). The provision thus preserves the original tenant's statutory right to seek accommodation in the reconstructed building, subject to his making an application within the prescribed period and the District Magistrate considering his requirements in accordance with law. It is, however, necessary to bear in mind that the provision does not confer an automatic right to reoccupy the same premises or to obtain a particular reconstructed unit. The question of allotment remains within the jurisdiction of the District Magistrate.

72. A statutory right cannot be construed in a manner that renders its exercise illusory. Where the legislature has conferred upon the original tenant a right to seek allotment in the newly constructed building, the statutory scheme must receive an interpretation which enables that right to be meaningfully exercised. If the proposed reconstruction is examined exclusively from the standpoint of the physical feasibility of demolition and construction, without taking into account the protection expressly conferred upon the original tenant, an important aspect of the legislative scheme would remain unaddressed. The requirement is not that the tenant must be assured allotment of the same premises or of accommodation identical in area or dimensions. It is that the proposed reconstruction should not be conceived or permitted in a manner which, from the outset, renders the statutory right under Section 24(2) incapable of effective exercise.

73. In this view of the matter, the right under Section 24(2), though exercisable before the District Magistrate after completion of

construction, cannot be regarded as wholly detached from the proceedings under Section 21(1)(b). The actual claim for allotment is undoubtedly to be considered by the District Magistrate in accordance with the procedure prescribed under the Act and the Rules. Nevertheless, the preservation of the statutory right is a relevant consideration at the stage of release itself. The authority considering release must, therefore, examine the proposed reconstruction in the context of the right available to the original tenant and consider whether any appropriate condition or safeguard is necessary to ensure that the exercise of that right is not frustrated. Such an interpretation gives effect to both provisions without encroaching upon the jurisdiction of the District Magistrate to consider and decide the application for allotment in accordance with law.

74. Section 24(1) of the Act, 1972 provides an additional safeguard to a tenant who has been evicted pursuant to an order under Section 21 or Section 22 of the Act. It contemplates situations where, after obtaining possession, the landlord does not utilise the building for the purpose for which it was released, puts another person in occupation contrary to the representation made before the Prescribed Authority, or otherwise puts the building to a use different from the purpose for which release was granted. The provision also specifically deals with a building which was proposed to be demolished but is not demolished within two months from the date of obtaining possession, or within such extended period as the Prescribed Authority may allow for sufficient cause.

75. In such circumstances, Section 24(1) enables the evicted tenant to seek restoration of possession of the building on the original terms and conditions, by making an application within three months from the date of the relevant act or omission. The provision thus seeks to ensure that an order of release is not utilised by the landlord for a purpose different from the one on the basis of which eviction was sought and granted. It operates as a statutory safeguard against misuse of the order of release and preserves the tenant's remedy where the landlord fails to fulfil the purpose for which possession was obtained.

76. Section 24(2), on the other hand, contemplates a different situation. It applies where the landlord, after obtaining a release order under Section 21(1)(b), demolishes the existing building and constructs a new building or buildings on its site. In such a situation, the original tenant is conferred a statutory opportunity to seek allotment of the newly constructed building, or such one of them as the District Magistrate may consider appropriate having regard to the tenant's requirements. The provision also prescribes the basis on which rent is payable by the tenant and makes the newly constructed building subject to the provisions of the Act, subject to the conditions stipulated therein.

77. A conjoint reading of Section 24(1) and Section 24(2) indicates that the legislature has contemplated two distinct eventualities arising out of an order of release granted under Section 21. Where the landlord fails to undertake demolition within the prescribed period, or otherwise acts contrary to the purpose for which the building was released, the remedy available to the evicted tenant is governed by Section 24(1). Conversely, where the landlord proceeds with demolition and constructs a new building on the site, the statutory protection available to the original tenant is governed by Section 24(2). The two provisions, therefore, operate in their respective fields and together form part of the statutory arrangement intended to protect the original tenant while recognising the landlord's right to demolish and reconstruct the building.

78. It is, therefore, evident that the statutory protection under Section 24 is not confined to a remedy against an eventual failure on the part of the landlord to comply with the purpose of release. In a case falling under Section 21(1)(b), the legislature has also expressly recognised the interest of the original tenant in the newly constructed accommodation. Although the actual claim for allotment under Section 24(2) is to be considered by the District Magistrate in accordance with the prescribed procedure, the existence of such a statutory right cannot be rendered meaningless by an interpretation of the provisions governing release which altogether disregards the tenant's interest in the proposed reconstruction.

79. At the same time, the statutory scheme does not require the Prescribed Authority, while considering an application under Section 21(1)(b), to adjudicate in advance the tenant's entitlement to allotment under Section 24(2), which is a matter falling within the jurisdiction of the District Magistrate. The consideration at the stage of release and the determination of the tenant's claim for allotment after reconstruction are distinct stages. Nevertheless, the proposed reconstruction must be examined in the context of the statutory scheme as a whole, so that the right expressly conferred upon the original tenant under Section 24(2) is not rendered illusory. Such an interpretation preserves the respective jurisdictions of the authorities under the Act while giving meaningful effect to the protection intended by the legislature.

Application of the Statutory Principles to the Present Case

80. In the present case, the appellate court has examined the material relating to the age and physical condition of the building, including the engineering report dated 31.08.2015 and the municipal inspection report dated 15.10.2017. It has also considered the estimate of the proposed demolition and reconstruction, the financial capacity of the respondent-landlady and the proposed construction plan. Upon consideration of the aforesaid material, the appellate court has recorded a finding that the building was in a dilapidated condition and required demolition and reconstruction.

81. The appellate court has further examined the requirements prescribed under Rule 17 of the Rules, 1972 by framing separate points for determination. While considering the requirement relating to the proposed expenditure and the financial capacity of the landlady, it has taken into account the estimate prepared by S.K. Construction, the income-tax return details and the bank account particulars placed on record. It has also considered the financial circumstances brought out from the pleadings of the parties and, upon such consideration, concluded that the respondent-landlady possessed the financial capacity to undertake demolition and reconstruction of the building.

82. Similarly, while examining the requirement under Rule 17(3), the appellate court has considered the proposed construction plan prepared by Khan Associates. Relying upon the decision in **Ram Shankar v. District Judge, Faizabad and Others**[10], it has held that Rule 17 requires a plan duly prepared in accordance with the applicable local laws and regulations, and does not insist upon a plan already sanctioned by the local development authority. On examination of the plan placed on record, the appellate court recorded a finding that the requirement under Rule 17(3) stood satisfied.

83. The appellate court, therefore, has not proceeded merely on the basis of the assertion of the respondent-landlady. It has examined the relevant documentary material and the rival submissions in relation to the statutory requirements governing release under Section 21(1)(b) of the Act, 1972. The findings recorded on the condition of the building, the estimate of demolition and reconstruction, the financial capacity of the landlady and the proposed construction plan demonstrate that the appellate court has independently considered the requirements prescribed under Rule 17 of the Rules, 1972. It has accordingly concluded that the Prescribed Authority had not correctly appreciated the material on record while rejecting the release application.

84. The submission regarding the statutory protection available to the petitioner under Section 24 of the Act, 1972 also requires consideration in the context of the scheme of the aforesaid provision. As noticed hereinbefore, Section 24(1) and Section 24(2) contemplate distinct eventualities arising after possession of the building is obtained pursuant to an order of release. Section 24(1) provides a remedy to the evicted tenant in the event of the specified acts or omissions on the part of the landlord, including failure to demolish a building within the prescribed period where possession has been obtained for that purpose. Section 24(2), on the other hand, provides an opportunity to the original tenant to seek allotment in the newly constructed building where the landlord,

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after obtaining release under Section 21(1)(b), demolishes the existing building and constructs a new building or buildings on its site.

85. A conjoint reading of the aforesaid provisions makes it clear that the protection under Section 24 is intended to operate at the stage contemplated therein, upon the occurrence of the relevant subsequent act or omission. The remedy under Section 24(1) becomes available where the landlord fails to fulfil the purpose for which possession was obtained or otherwise acts in the manner contemplated by that provision. Likewise, the right under Section 24(2) becomes relevant where, following demolition, a new building or buildings are constructed on the site. The actual claim for allotment under the latter provision is required to be considered by the District Magistrate in accordance with the statutory procedure.

86. It is, therefore, necessary to distinguish between the requirements governing the grant of release under Section 21(1)(b), read with Rule 17 of the Rules, 1972, and the statutory remedies made available to the original tenant under Section 24. The former provisions require the authority to satisfy itself regarding the necessity of demolition, the estimate of the proposed expenditure, the preparation of a plan in accordance with the applicable requirements and the financial capacity of the landlord. The latter provision deals with the consequences arising after possession has been obtained and the subsequent conduct of the landlord. The right available under Section 24 cannot, therefore, be construed as introducing an additional requirement for release which is not prescribed under Section 21(1)(b) or Rule 17.

87. The fact that the actual claim for allotment under Section 24(2) is to be considered at a subsequent stage does not mean that the statutory right of the original tenant is either extinguished or rendered ineffective by an order of release. Equally, the provision does not confer an automatic right upon the tenant to continue in possession of the existing premises or to obtain a particular reconstructed accommodation as a condition precedent to the grant of release. The tenant's entitlement is

subject to the conditions prescribed under Section 24(2), including making an application within the prescribed period, and is required to be considered by the District Magistrate having regard to the tenant's requirements.

87. The decisions relied upon by the petitioner, including **Rafeeq Ahmad** (supra) and **Riazur Rahman Khan** (supra), have also been considered in the context of the statutory protection available to the original tenant. Appropriate undertakings or conditions relating to reconstruction may be considered by the competent court having regard to the facts and circumstances of an individual case. However, such safeguards cannot be elevated into an inflexible statutory requirement, compliance with which must invariably precede the grant of release under Section 21(1)(b). The absence of a specific finding regarding an undertaking or a condition relating to the future allotment of accommodation under Section 24(2), by itself, does not invalidate an otherwise sustainable order of release.

88. In the present case, the appellate court has examined the material relating to the proposed demolition and reconstruction and has recorded affirmative findings regarding the requirements prescribed under Rule 17 of the Rules, 1972. The petitioner has not demonstrated that any of these findings suffer from perversity, disregard of material evidence or an error of law warranting interference in exercise of supervisory jurisdiction. The mere fact that the appellate judgment does not separately adjudicate the petitioner's eventual entitlement under Section 24(2) cannot constitute a ground for setting aside the order of release, particularly when such entitlement is required to be considered by the District Magistrate at the appropriate stage.

89. In view of the foregoing discussion, this Court finds that the appellate court has duly examined the material on record and the requirements prescribed under Rule 17 of the Rules, 1972 before allowing the release application under Section 21(1)(b) of the Act, 1972. No jurisdictional error, perversity or manifest illegality has been

demonstrated in the findings recorded by the appellate court. The petitioner's statutory protection under Section 24 does not furnish an independent ground to invalidate the order of release, the remedies contemplated therein being available in accordance with the circumstances and conditions prescribed by the statute. Consequently, no ground is made out for interference in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

Conclusion and Operative Directions

90. For the reasons discussed above, this Court finds that the petitioners have failed to demonstrate any illegality, jurisdictional error or perversity in the orders under challenge warranting interference in exercise of jurisdiction under Article 226/227 of the Constitution of India.

91. Both the petitions are, accordingly, **dismissed**.

92. It is, however, clarified that dismissal of the present petitions shall not preclude the petitioner-tenant from invoking the statutory remedy available under Section 24(2) of the Act, 1972, at the appropriate stage, upon fulfilment of the conditions prescribed therein. Any such claim or application shall be considered by the competent authority concerned independently and in accordance with law, without being influenced by the dismissal of the present petitions.

93. The observations made in this judgment shall not be construed as an expression of opinion on the petitioner's entitlement to the benefit of Section 24(2) of the Act, 1972, which shall be determined by the competent authority in accordance with the applicable statutory provisions.

94. There shall be no order as to costs.

(Dr. Yogendra Kumar Srivastava,J.)

November 17, 2026
Sushma

Digitally signed by :-
SUSHAMA YADAV
High Court of Judicature at Allahabad