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(2000) 02 AHC CK 0069

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 9054 of 2000

Dhirendra Singh	APPELLANT
Vs	
Kashi Nath Gupta and Others	RESPONDENT

Date of Decision: Feb. 21, 2000

Acts Referred:

- Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 - Section 21(1)(a)

Citation: (2000) 02 AHC CK 0069

Hon'ble Judges: S.N.Agarwal, J

Final Decision: Allowed

Judgement

Sudhir Narain, J.
This writ petition is directed against the order dated 24101998, whereby the application of the petitioner for setting aside the exparte order dated 251998 was rejected, and the order of the appellate authority dated 2922000, confirming the said order.

2. The landlordRespondent No. 1 filed an application under Section 21(l)(a) of the U.P. Act No. 13 of 1972, with the allegations that he required the disputed shop for his son, Sachin Gupta. The notice was issued to the petitioner. Report came that he had refused that. It was taken as sufficient service and the prescribed authority allowed the application on 251998 against the petitioner. The petitioner filed an application on 781998 to recall the said order on the ground that he had not received the notice alleged to have been sent to him. The prescribed authority rejected this application on 24101998. The petitioner preferred an appeal and the appeal has been dismissed on 2922000.

3. I have heard Sri M.M.D. Agarwal, learned counsel for the petitioner arid Sri Janardan Sahai, learned counsel for the respondents.

4. The version of the petitioner was that he had not received the notice alleged to have been sent by the prescribed authority on the applicationbeing filed by the landlordrespondent under Section 21(l)(a)of the U.P. Act No. 13 of 1972.The" petitioner was given another notice which was alleged to have been received by him personally. He has denied that it contained his signature. The prescribed authority rejected the application on the ground that the petitioner failed to explain as how he came to know about it. The contention of the petitioner that he came to know through some other person. The appellate authority has dismissed the appeal. .

5. After hearing the learned counsel for the parties and perusing the record, 1 find that the petitioner had denied his signature on the notice. None of the parties had produced the expert evidence. The process server had earlier reported that the petitioner had refused to accept the notice and there was no explanation as to why the petitioner would accept the notice when it was given the next time. The person who had refused the notice earlier, if his intention was to avoid it, would not accept the same on the second time as well.

6. Considering the facts and circumstances of the case, the order passed by the respondents are quashed. The application for restoration shall be allowed on payment of Rs. 5,000 payable as cost to the landlordrespondent by a bankdraft within a month from today. In case this amount is not deposited, this writ petition shall stand dismissed.

7. As the matter is old, the application under Section 21(1)(a) shall be decided within 3 months of production of certified copy of this order. The case shall not normally be adjourned and if it is to be adjourned for some reason, it shall not be adjourned for more than 3 days.

8. With the above observations, the writ petition is allowed. Petition allowed.