

(2003) 12 AHC CK 0160

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 52724 of 2003

Kiran Traders

APPELLANT

Vs

Judge Small Cause Court and
Others

RESPONDENT

Date of Decision: Dec. 8, 2003

Acts Referred:

- Constitution of India, 1950 - Article 226
- Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 - Section 21(1), 22

Citation: (2005) 1 ARC 246

Hon'ble Judges: S.P. Mehrotra, J

Bench: Single Bench

Advocate: N.L. Pandey, for the Appellant;

Final Decision: Dismissed

Judgement

S.P. Mehrotra, J.

The present Writ Petition has been filed under Article 226 of the Constitution of India, inter alia, praying for quashing the order dated 7.10.2003 (Annexure-6 to the Writ Petition) passed by the learned Judge, Small Cause Court/Prescribed Authority, Meerut on an application (Paper No. 44 Ga) filed in P.A. Case No. 31 of 2000.

2. The dispute relates to a shop, the details whereof are given in the Release Application referred to hereinafter. The said shop was hereinafter been referred to as "the disputed shop".

3. From a perusal of the averments made in the Writ Petition and the Annexures thereto, it appears that the respondent Nos. 2, 3 and 4 herein filed a Release Application u/s 21 (1) (a) of the U.P. Act No. XIII of 1972 (in short "the Act") against the petitioner herein and others for the release of the disputed shop. The said Release Application was registered as P.A. Case No. 31 of 2000. Copy of the said

Release Application has been filed as Annexure-1 to the Writ Petition.

4. It further appears that the petitioner herein and others (opposite parties in the said Release Application) contested the said Release-Application, and filed their written statement, copy whereof has been filed as Annexure-2 to the Writ Petition.

5. It further appears that during the pendency of the said P.A. Case No. 31 of 2000, an application dated 20.8.2002 (Paper No. 44 Ga) was filed on behalf of the petitioner herein and others (opposite parties in the said Release Application), inter alia, praying for appointment of an Advocate Commissioner for spot inspection. Copy of the said application dated 20.8.2002 (Paper No. 44 Ga) has been filed as Annexure-5 to the Writ Petition.

6. It further appears that by the order dated 7.10.2003 (Annexure-6 to the Writ Petition), the said application dated 20.8.2002 (Paper No. 44 Ga) filed on behalf of the petitioner herein and others (opposite parties in the said Release Application), was rejected by the learned Judge, Small Cause Court/Prescribed Authority, Meerut.

7. Thereafter, the petitioner has filed the present Writ Petition seeking the reliefs mentioned above.

8. I have heard Shri N.L. Pandey, learned Counsel for the petitioner, and perused the record.

9. From the facts narrated above, it is evident that the said order dated 7.10.2003 (Annexure-6 to the Writ Petition) impugned in the present Writ Petition, has been passed on the said application dated 20.8.2002 (Paper No. 44 Ga) filed during the pendency of the said P.A. Case No. 31 of 2000. The said order dated 7.10.2003 is evidently an interlocutory order. It will be open to the petitioner herein and others (opposite parties in the said Release Application) to challenge the said order before the Appellate Authority, in case, the final decision in the said P.A. Case No. 31 of 2000 goes them, and they challenge such final decision in appeal u/s 22 of the Act before the Appellate Authority.

10. In the circumstances, in my opinion, no interference is called for with the impugned order dated 7.10.2003 by this Court at this stage.

11. In view of the aforesaid discussion, the Writ Petition is dismissed subject to the observations made above.