

(2003) 11 AHC CK 0205

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 51875 of 2003

Shiv Pujan Pathak

APPELLANT

Vs

Ashok Kumar Agarwal and
Others

RESPONDENT

Date of Decision: Nov. 24, 2003

Acts Referred:

- Constitution of India, 1950 - Article 226, 227
- Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 - Section 21(1), 22

Citation: (2005) 1 ARC 250

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

Bench: Single Bench

Advocate: S.K. Mishra, for the Appellant; None, for the Respondent

Final Decision: Dismissed

Judgement

S.P. Mehrotra, J.

The Present Writ Petition has been filed under Articles 226 and 227 of the Constitution of India, inter alia, praying for quashing the order dated 30.10.2003 (Annexure-8 to the Writ Petition) passed by the learned Civil Judge, (Junior Division)/Prescribed Authority, Jhansi in P.A. Case No. 40 of 2000.

2. The dispute relates to House No. 32, Civil Lines Jhansi, the details whereof are given in the Release Application referred to hereinafter. The said House has hereinafter been referred to as "the disputed house."

3. From a perusal of the averments made in the Writ Petition, it appears that Radha Krishna Agrawal, predecessor-in-interest of the respondent Nos. 1 and 2 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 for release of the disputed house. The said Release Application was registered as P.A. Case No. 40 of 2000. Copy of the said Release

Application has been filed as Annexure-2 to the Writ Petition.

4. It further appears that the petitioner contested the said Release Application and filed his Written Statement, copy whereof, has been filed as Annexure-3 to the Writ Petition.

5. It further appears that during the pendency of the said Release Application, the said Radha Krishna Agrawal died and the respondent Nos. 1 and 2 herein were brought on record as the heirs and legal representatives of the said Radha Krishna Agrawal.

6. It further appears that during the pendency of the said Release Application, affidavits of Deepak Agarwal, Abhinav Agarwal, and Abhishek Agarwal (Annexures 5, 6 and 7 respectively to the Writ Petition) were filed on behalf of the respondents.

7. Thereupon, an application (No. 75 Ga) was filed on behalf of the petitioner, inter alia, praying that the said affidavits filed on behalf of the respondents be not taken on record and be not read in evidence. Copy of the said Application has been filed as Annexure-1 to the Writ Petition.

8. It further appears that by the order dated 30.10.2003 (Annexure-8 to the Writ Petition), the learned Civil Judge (Junior Division)/Prescribed Authority, Jhansi rejected the said Application (No. 75 Ga) filed on behalf of the petitioner.

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

10. I have heard Sri S.K. Mishra, learned Counsel of the petitioner, and perused the record.

11. From the aforesaid narration of the facts, it is evident that the said order dated 30.10.2003 impugned in the present Writ Petition has been passed on the said Application (Paper No. 75 Ga) during the pendency of the said P.A. Case No. 40 of 2000, and the said order is an interlocutory order. It will be open to the petitioner to challenge the said order dated 30.10.2003, in case, the final decision in the said P.A. Case No. 40 of 2000 goes against the petitioner, and the petitioner files an Appeal u/s 22 of the Act against such final decision.

12. Therefore, without going into the merits of the impugned order dated 30.10.2003, I am of the opinion that no interference is called of with the said order at this stage.

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