Survesh Kumar Gupta Vs IIIrd Addl. District Judge and Another

C.M.W.P. No. 5596 of 2001

Court: Allahabad High Court

Date of Decision: Feb. 19, 2001

Acts Referred:
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 â€" Section 10, 18, 21(1), 22#Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Rules, 1972 â€" Rule 15(1), 15(3), 7(7), 8(2)

Citation: (2001) 2 AWC 891

Hon'ble Judges: A.K. Yog, J

Bench: Single Bench

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

Final Decision: Dismissed

Judgement

A.K. Yog, J.
The perusal of the order sheet in this case, copy annexed as Annexure-1 to the writ petition, shows that tenant managed to

put in appearance for about 10 months. See order sheet of 31.1.1998 to 15.7.1998. Respondent was absent or otherwise filed application for

adjournment at least on about 15 occasions (including dates when Respondent absented without filing applications for adjournment); see order

sheet from 9.9.1998 to 15.10.1998, 2.11.1998, 5.1.1999, 17.5.1999, 29.7.1999, 18.10.1999/20.10.1999, 27.11.1999, 16.12.1999, 1.3.2000,

5.5.2000, 23.5.2000, 12.7.2000, 20.12.2000 and 11.1.2001. Apart from it, case could not be heard because of the advocates strike on

15/17.1.2000 and 24.3.2000. The case could not be taken up because Presiding Officer was on leave on 22.12.1999 and 20.12.2000. The order

sheet of the case clearly indicates that tenant applied for and got adjournments or otherwise absented. It clearly reflects that tenant is adopting

delaying tactics. Court below ought to have shown its concern and attempted to decide the case early by not granting adjournments lightly. The

court below, though not endeavoring and without being alive to its consequence encouraged the concerned party to get the case delayed by

seeking adjournments on ipsi dixit.

2. Rule 7(7), framed under Sections 10, 18 and 22 of the Act, read:

As far as possible, a revision u/s 18 shall be decided within one month, an appeal or revision u/s 10 shall be decided within two months, and an

appeal u/s 22 shall be decided within six months from the date of its presentation.

3. Rule 15(1) and (3), framed u/s 21(1)(a) of the Act read:

(1) Every application referred to in Sub-rule (1) shall, as far as possible, be decided within two months from the date of its presentation. Disposal

of release application filed by landlord, it is statutory obligation of the Court.

(2) ....

(3) Every application referred to in Sub-rule (1) shall, as far as possible, be decided within two months from the date of its presentation.

4. Hon''ble Dr. A.S. Anand. Chief Justice of India, in his letter dated December 22, 1998, addressed to all the Chief Justices of the High Courts,

referred to ''laws delay'' and noted ""we should take every possible step for early disposal of old cases so that the agony of the litigants is brought to

an end...conveying unequivocally to the parties that such old matters cannot be allowed to remain pending indefinitely and bring disrepute to the

Courts. No party to the litigation can be permitted to have any vested right in slow motion justice. ...Let 1999 be an ""Year of Action"" towards

disposal of old cases."" He advised old cases to be decided on day-to-day basis.

5. In another letter dated April 22 of 1999, the Chief Justice of India with reference to ""International Year of Older Persons"" noted ""In India, there

is high incidence of litigation concerning property and inheritance, two of the most common issues in which elderly persons are generally involved

apart from landlord-tenant disputes. Besides property and inheritance matters, service matters, such as pension and retiral benefits also concern

older people..."".

The problem gets compounded by the inordinate delay in disposing of the matters of older persons in the Courts and in many matters the litigant

unfortunately dies even before the case is finally settled. You will appreciate that the elderly people deserve to be attended by the legal system of

the country somewhat on priority basis. Therefore, there is a need to evolve a system which may ensure timely disposal of their matters pending in

the Court...".

6. Adjournments in the present judicial delivery system'' are like fire. If we sit with our back towards it then for sure, in future we shall be sitting on

our blisters. Bible says: ""Do not let evil conquer you, but overcome evil with good"".

7. Mohammad Ali said: ""It is poor statesmanship to slur over inconvenient realities"". Court should not overlook or ignore realities, if it desires the

public to continue to have faith in the system.

8. This Court would not like to believe that sensitivity to human hardship, in our judicial system has been lost. No Court can dispense justice unless

it is alive and sensitive to human suffering and takes note of realities.

9. From the scheme contemplated under the Act and the Rules quoted above, it is abundantly clear that Legislature did mandate that tenant-

landlord dispute be decided with utmost expediency.

10. Expression ""as far as possible"" and ""so far as possible"" in aforequoted rules, do imply that Court must decide the cases referred therein within

the time prescribed by the Legislature unless otherwise not possible.

11. The expression ""as far as possible"" came for interpretation in AIR 1977 251 (SC) ; Usmania University v. Muthu Rangam 1997 (3) SU 199

(SC), to must unless otherwise not permissible. Expression ""so far as possible"" in Rule 8(2) of Act, has been interpreted by this Court in the case

of Mohd. Naseem v. A.R.O./R.C. and E.O. Agra and Ors. 1980 AWC 186, and held that the statutory requirement is essential and must unless,

for reasons to be recorded, it is not possible to act or comply with the same.

12. When a Court grants adjournment, it is expected that it shall record reasons, in brief to indicate that adjournment was imminent and not

avoidable.

13. By allowing adjournments lightly, unscrupulous litigant is encouraged while Court fails in its duty to protect the other side from exploitation,

avoidable harassment and frustration.

14. In view of the above, it is desired that all the sub-ordinate courts, dealing with Rent Control matters, be required to bear in mind the aforesaid

observations.

15. This Court is not inclined to issue a writ of mandamus to command court below to decide a case within a specified period inasmuch as court

below dealing with the cases of landlord and tenant is the best judge of its diary and conscious of other circumstances/situation under which it has

to deal with its docket but, while granting adjournment it must justify its order.

16. Courts must not succumb to delaying tactics by granting adjournments in lighter vein. By asking for adjournment for the sake of adjournment

and the Judge granting them very lightly, both became part of very vicious circle. The Bar has to contribute its might. Adjournment, where it

becomes unavoidable, may be sought, but not for the sake of it; not at the drop of a hat. Look at the plight of the poor litigant. What happens to

him. Who pays for loss of time so far as he is concerned? We must avoid all unnecessary adjournments.

17. One way to check frivolous/manipulated adjournment is to impose real and adequate costs; so that concerned party should take up the case

with all seriousness at its command and give priority to such cases.

18. Writ petition dismissed in limine subject to the observations made above.

19. No order as to costs.