
(2022) 06 DEL CK 0056

In the Delhi High Court

Case No : Civil Miscellaneous (Main) No. 578 Of 2022, Civil Miscellaneous Application No. 27716, 27717 Of 2022

Aftab Ahmad And Anr

APPELLANT

Vs

Mirza Aziz Beg

RESPONDENT

Date of Decision : 03-06-2022

Acts Referred:

Constitution Of India, 1950 — Article 227

Citation : (2022) 06 DEL CK 0056

Hon'ble Judges : C. Hari Shankar, J

Bench : Single Bench

Advocate : Abhik Kumar, Rinku

Final Decision : Dismissed

Judgement

C. Hari Shankar, J

1. This petition, preferred under Article 227 of the Constitution of India, assails the impugned order dated 24th September, 2020, passed by the learned Additional Rent Controller ("the learned ARC") in E-371/2018 (Mirza Aziz Beg v. Aftab Ahmad & anr.) whereby the learned ARC closed the opportunity of the petitioner, who was the respondent in the said eviction petition, to file written statement.

2. The impugned order notes the fact that, on 10th December, 2019, one month's time was granted to the respondent to file written statement and that no written statement had been filed till 24th September, 2020.

3. It is in these circumstances that the learned ARC has closed the petitioner's right to file written statement.

4. The order is clearly within the jurisdiction of the learned ARC. The learned ARC waited for as many as seven months before closing the petitioner's right to file written statement. It is not even open to the petitioner to raise the oft-cited plea

of the COVID-19 pandemic – which learned Counsel for the petitioner sought to urge in the present case as well – as a ground to interfere with the impugned order, as the time available with the petitioner to file the written statement expired much before the COVID-19 pandemic was visible on the horizon.

5. Article 227 of the Constitution of India confers supervisory jurisdiction on the court. Discretionary orders passed by the trial court, which are passed within its jurisdiction and do not suffer from any perversity or illegality cannot be interfered with under Article 227; else, this Court would be ignoring the long line of precedents regarding Article 227, which include, *Sadhana Lodh v. National Insurance Co. Ltd*¹, *Estralla Rubber v. Dass Estate (P) Ltd*², *Garment Craft v. Prakash Chand Goel*³, *Puri Investments v. Young Friends & Co*⁴ and the recent judgment in *Ibrat Faizan v. Omaxe Buildhome Pvt. Ltd*⁵.

6. These decisions clearly hold that the parameters of Article 227 jurisdiction are extremely constricted. The court is proscribed, in exercise of Article 227 jurisdiction, even from going into the correctness of the orders passed by the court below. Even if the order under challenge is erroneous, that cannot by itself justify interference under Article 227, where no case for correction is made out.

7. Still less would the Court be justified in interfering, where the order of the Court below is passed in lawful exercise of discretion vested in the Court, and where such exercise cannot be said to suffer from any perversity.

8. Clearly, the impugned order does not suffer from any illegality.

9. Learned Counsel for the petitioner fervently pleaded that, if the written statement is not taken on record, the petitioner would lose his right to defend the eviction petition. He prays that, therefore, though there is delay in filing the written statement, the court may condone the delay *ex debito justitiae* or direct the learned ARC to treat the petitioner's application for leave to defend as its written statement

10. It does not appear that any request was made by the petitioner, before the learned ARC, to be permitted to urge the contentions advanced in its application for leave to defend, as its contentions in response to the eviction petition filed by the respondent, or to have its application for leave to defend treated as its written statement.

11. Given the concern expressed by learned Counsel for the petitioner, I do not express any opinion on whether the petitioner would be entitled to treat the application for leave to defend filed by the petitioner as its written statement or to rely on the averments contained in the said application, to controvert the eviction petition filed by the respondent, or whether such a course of action is permissible at all.

12. The right is reserved with the petitioner to take up this issue with the learned ARC. If such a plea is raised, the learned ARC would be at liberty to take an appropriate view thereon in accordance with law.

13. Subject to the aforesaid limited caveat, this Court does not see any reason to interfere with the impugned order dated 24th September, 2020. The petition is accordingly dismissed.