
(2021) 08 UK CK 0420

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1437 Of 2020

Atul Sharma

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision : 27-08-2021

Acts Referred:

Uttar Pradesh Public Premises (Eviction Of Unauthorised Occupants) Act, 1972 —
Section 8, 9
Code Of Civil Procedure, 1908 — Order 41 Rule 27

Citation : (2021) 08 UK CK 0420

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : Sarvesh Agarwal, R.C. Arya

Final Decision : Dismissed

Judgement

Manoj Kumar Tiwari, J

1. Proceedings under Uttar Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1972 were initiated against the petitioner. Learned Prescribed Authority, Nainital ordered for petitioner's eviction vide order dated 21.06.2017 passed in Eviction Case No. 22/08 of 2009-2010.

2. Against the said order, petitioner filed an appeal under Section 9 of the aforesaid Act. Before the Appellate Authority, petitioner moved an application under Order 41 Rule 27 of C.P.C. seeking leave to produce additional evidence. The said application has been rejected by learned Appellate Authority vide order dated 07.12.2019. Thus, feeling aggrieved, petitioner has preferred this writ petition before this Court.

3. I have perused the impugned order passed by learned Appellate Authority. Learned Appellate Authority has given cogent reasons for rejecting petitioner's application. In the considered opinion of this Court, any interference with the impugned order passed by learned Appellate Authority would be uncalled for.

4. Even otherwise also, proceedings under Uttar Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1972 are summary in nature, therefore, entire procedure laid down in CPC cannot be made applicable to these proceedings. Moreover, Section 8 of the Uttar Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1972 confers only some of the powers available to a Civil Court which are extracted below:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) any other matter which may be prescribed.

5. Thus other powers available under C.P.C. would be impliedly excluded.

6. In such view of the matter, the application under Order 41 Rule 27 of C.P.C., filed by the petitioner before the Appellate Authority, was rightly rejected. Accordingly, writ petition is dismissed.