

(2011) 08 AHC CK 0097

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 44337 of 2011

Bhagwan Sahai and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 05-08-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 8 ADJ 66 : (2012) 1 AWC 149 : (2011) 114 RD 403

Hon'ble Judges : A.P. Sahi, J

Bench : Single Bench

Advocate : Vinod Sinha and Mahesh Sharma, for the Appellant; C.S.C., Anuj Kumar and Kumar Anish, for the Respondent

Final Decision : Allowed

Judgement

Hon'ble A.P. Sahi, J.—Heard Sri Vinod Sinha learned counsel for the petitioners and Sri Kumar Anish for the respondent Nos. 19 and 20.

2. There is a limited prayer made before this Court and therefore it is not necessary to issue notice to the other respondents in a matter relating to cancellation of lease. The order passed against the petitioners has been challenged in a revision which is pending before the Additional Commissioner, Meerut Region, Meerut.

3. The learned Additional Commissioner during the pendency of the revision has refused, to grant any interim relief on the ground that it is not clear as to whether the revisionist has any prima facie case or balance of convenience in his favour or not.

4. Learned counsel submits that this disposal of the said application does not reflect any exercise of discretion judiciously in accordance with law, inasmuch as, what is the prima facie case and what is the balance of convenience has not been discussed at all. Sri Sinha submits that the disposal of the said application is by a laconic order.

5. Sri Kumar Anish submits that in the earlier round of litigation, the interim order that was obtained by the petitioners was all ex-parte, whereas the present order has been passed after hearing the parties and as such there is no error in the said order refusing to exercise discretion. He further submits that the revision itself can be disposed of, therefore, there is no requirement for any interference by this Court under Article 226 of the Constitution of India at this stage.

6. Learned counsel submits that once the revision has been entertained then the parties should have been directed to maintain status quo till the revision is decided.

7. Having heard learned counsel for the parties an interim order is granted during the pendency of the litigation in order to ensure that the status of the property in dispute is not altered and parties are not put to any disadvantageous position. Reference may be had to the judgment in the case of Som Nath v. The Additional District Judge II Muzaffar Nagar and another, 1994 RD 246.

8. The submissions deserve to be accepted in view of what has been discussed hereinabove and even otherwise the learned Commissioner did not exercise a judicious discretion while refusing to grant interim relief. The parameters for such grant have been set out in the case of Aligarh Muslim University v. Vinay Engineering Enterprises Ltd., (1994) 4 SCC 710 The Apex Court has also explained as to what is judicious discretion in the case of Reliance Airport Developers Pvt. Ltd. Vs. Airports Authority of India and Others,

Accordingly the writ petition is partly allowed. The order dated 22.6.2011 is set aside. The revision shall be disposed of within two months from the date of presentation of a certified copy of this order before the Additional Commissioner. Till the revision is disposed of the parties are directed to maintain status quo over the property in dispute as existing on today