
(2003) 02 AHC CK 0083

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 578 of 2003

Chandra Prakash Arora

APPELLANT

Vs

Khurana Estate Agencies Pvt. Ltd.& Anr.

RESPONDENT

Date of Decision : 13-02-2003

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21(1)(b), 22, 23

Citation : (2003) 02 AHC CK 0083

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

Final Decision : Dismissed

Judgement

S.P. Mehrotra, J.—This Writ Petition has been filed by the petitioner under Article 226 of the Constitution of India praying for the following reliefs :

?(i) to issue a writ, order or direction in the nature of mandamus commanding the Prescribed Authority/Judge Small Cause Court, Saharanpur to stay further proceedings in P.A. Misc. Case No. 27 of 2000 till the final decision of release application (registered as P.A. Case No. 77 of 1996) filed by the respondent No. 1 under Section 21 (1)(b) of the Act for release of the shops in the tenancy of the petitioner.

(ii) to issue any other writ, order or direction which this Hon''ble Court may deem just, fit and proper in the facts and circumstances of the case to meet the ends of justice.

(iii) to award the costs of this writ petition to the petitioner.?

2. The dispute relates to shops bearing Municipal Nos. 2/521/2 and 2/521/3 situated on Railway Road, Saharanpur. The said shops have hereinafter been referred to as ?the disputed accommodation.?

3. From the allegations made in the Writ Petition, it appears that the respondent No. 1 is the landlord of the disputed accommodation, which is in the tenancy of

the petitioner.

4. It further appears that the respondent No. 1 is also the landlord of shops bearing Municipal No. 2/521 and 2/521/1 situated on Railway Road, Saharanpur which are adjacent to the disputed accommodation.

5. Further, the respondent No. 1 is also the landlord of the accommodation situated on the First Floor above the disputed accommodation as well as the said adjacent shops. The said adjacent shops (namely No. 2/521 and 2/521/1) together with the said First Floor accommodation (above the disputed accommodation as well as the said adjacent shops) have, hereinafter, been referred to as 'the adjacent accommodation'.

6. It further appears that the adjacent accommodation has been in the tenancy of the respondent No 2.

7. It further appears that the respondent No. 1 filed a release application under Section 21 (1) (b) of the U.P. Act No. 13 of 1972 (in short 'the Act') against the respondent No. 2 in respect of the adjacent accommodation. The said release application was registered as Release Case No. 108 of 1994.

8. By the judgment and order dated 981996, the Prescribed Authority, Saharanpur allowed the said release application (Release Case No. 108 of 1994) against the respondent No. 2 in respect of the adjacent accommodation.

9. It farther appears that the respondent No. 2 filed an appeal being Rent Control Appeal No. 19 of 1996 under Section 22 of the Act against the said judgment and order dated 981996.

10. The said Rent Control Appeal No. 19 of 1996 was dismissed by the Appellate Authority by its judgment and order dated 911 2000.

11. It further appears that thereafter, the respondent No. 2 filed a writ petition before this Court being Civil Misc. Writ Petition No. 53756 of 2000 challenging the said judgment and order dated 9112000 and the said judgment and order dated 98 1996.

12. The said Civil Misc. Writ Petition No. 53756 of 2000 was dismissed by this Court by its judgment and order dated 2382002.

13. Copy of the said judgment and order dated 2382002 has been filed as Annexure 3 to the writ petition.

14. It further appears that after the dismissal of the said Rent Control Appeal No. 19 of 1996 filed by the respondent No. 2, the respondent No. 1 had filed an application dated 4122000 under Section 23 of the Act before the Prescribed Authority for getting executed the said release order dated 9 81996 against the respondent No. 2 in respect of the adjacent accommodation. The said application dated 4122000 under Section 23 of the Act was registered as P.A. Misc. Case No. 27 of 2000.

15. It further appears that on account of the stay order dated 13122000 passed by this Court in the said Civil Misc. Writ Petition No. 53756 of 2000, the proceedings in the said P.A. Misc. Case No. 27 of 2000 remained stayed.

16. It further appears that after the dismissal of the said Civil Misc. Writ Petition No. 53756 of 2000, the Prescribed Authority has again started the said proceedings in P.A. Misc. Case No. 27 of 2000 under Section 23 of the Act for executing the release order dated 981996 against the respondent No. 2 in respect of the adjacent accommodation.

17. It further appears that in the meantime, the respondent No. 1 filed a release application on 15101996 under Section 21(1)(b) of the Act against the petitioner in respect of the disputed accommodation. The said release application was registered as P.A. Case No. 77 of 1996.

18. It further appears that the said P.A. Case No. 77 of 1996 filed by the respondent No. 1 against the petitioner in respect of the disputed accommodation is still pending before the Prescribed Authority.

19. As noted above, the Prescribed Authority is now proceeding with the said P.A. Misc. Case No. 27 of 2000 under Section 23 of the Act for executing the said release order dated 981996 against the respondent No. 2 in respect of the adjacent accommodation.

20. In the aforesaid circumstances, the petitioner has filed the present writ petition seeking the reliefs quoted above.

21. I have heard the learned counsel for the petitioner and Sri U.C. Mishra who has put in appearance on behalf of the respondent No. 1.

22. It is submitted by the learned counsel for the petitioner that in case, the release order dated 981996 in respect of the adjacent accommodation is executed against the respondent No. 2 and thereafter, the respondent No. 1 demolishes the adjacent accommodation, the same would result in the demolition of the disputed accommodation in the tenancy of the petitioner also. Therefore, the contention proceeds, the proceedings in the said P.A. Misc. Case No. 27 of 2000 for executing the said release order dated 981996 in respect of the adjacent accommodation against the respondent No. 2 be stayed.

23. In reply, Sri U.C. Mishra, learned counsel appearing for the respondent No. 1 submits that the petitioner has got no locus standi to object to the execution of the said release order dated 981996 in respect of the adjacent accommodation against the respondent No. 2. It is further submitted by Sri Mishra that similar objections have been filed by the petitioner before the Prescribed Authority in the said P.A. Misc. Case No. 27 of 2000, and the said objections are still pending.

24. Having considered the submissions made by the learned counsel for the parties, I am of the opinion that the petitioner cannot be granted the reliefs prayed for by him in the present Writ Petition. It is not disputed that the said

release order dated 981996 is only in respect of the adjacent accommodation which is in the tenancy of the respondent No. 2. The petitioner, in my opinion, cannot seek stay of the proceedings for executing the said release order in respect of the adjacent accommodation. In case, the petitioner had any apprehension that under the garb of executing the said release order in respect of the adjacent accommodation the disputed accommodation in the tenancy of the petitioner would also be demolished, it was open to the petitioner to seek appropriate remedies in this regard. In my opinion, the writ petition does not lie for redressal of the grievances sought to be raised by the petitioner.

25. It is however, relevant to state that during the course of arguments in this case on earlier occasion, Sri U.C. Mishra, learned counsel appearing for the respondent No. 1 fairly gave an assurance that the disputed accommodation in the tenancy of the petitioner would not be demolished while executing the said release order dated 981996 against the respondent No. 2 in respect of the adjacent accommodation.

26. During the course of arguments, Sri U.C. Mishra, learned counsel appearing for the respondent No. 1 filed counter affidavit on behalf of the respondent No. 1. Sri Mishra further fairly gave similar assurance, as mentioned above.

27. Today, Sri U.C. Mishra has also filed a supplementary counter affidavit sworn by Ashok Kuchchal (alleging himself to be the Managing Director of M/s. Khurana Estate Agencies (Pvt.) Limited respondent No. 1) on 1222003.

28. In paragraph 2 of the said supplementary counter affidavit sworn by Sri Ashok Kuchchal, it is stated as under:

?That neither answering respondent is going to take possession of the shop which is in the tenancy of petitioner nor the same will be demolished. The doubts raised by petitioner in petition are vague and made only in collusion with respondent No.3, who even after, order of Hon"ble Supreme Court do not want to vacate the portion in his possession.?

29. In view of the aforesaid categorical undertaking given by the said Ashok Kuchchal on behalf of the respondent No. 1 it is evident that the apprehensions expressed by the petitioner are misplaced.

30. In view of the aforesaid facts and circumstances, I am of the opinion that this Writ Petition lacks merit, and the same is liable to be dismissed. The Writ Petition is accordingly dismissed.

Writ petton accordingly dismissed.