
(2001) 02 AHC CK 0090

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 5410 of 2001

Girdhari Lal Pathak

APPELLANT

Vs

R.C.and E.O.cum- City Magistrate,Mathura and Others

RESPONDENT

Date of Decision : 14-02-2001

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 16, 18

Citation : (2001) 02 AHC CK 0090

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

Final Decision : Allowed

Judgement

A.K. Yog, J.—This petition has been filed against interim order of stay dated February 2, 2001 (Annexure 4 to the writ petition) passed by 1st Additional District Judge, Mathura/respondent No. 2.

2. For the purpose of present petition it will suffice to mention that with respect to certain accommodation there is a dispute regarding ownership. An allotment order was obtained on January 27,2000 by one Vrindavan Behari/respondent No. 4 on the basis that its owners/landlord was one Ramji Lal Samadhia. This position is being disputed by Girdhari Lal Pathak, the present petitioner. It has come on record and it is also admitted at the Bar that a civil suit is also pending between aforesaid Ramji Lal Samadhia and Girdhari Lal Pathak regarding their ownership and consequently the right to contest release/allotment proceedings under U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, U.P. Act No. XIII of 1972 (for short called "the Act"). Against the allotment order dated January 27,2000 in favour of respondent No. 4 an application for review under Section 16 (5) of the Act was filed by the present petitioner Girdhari Lal Pathak and the same was allowed by the Delegated Authority by means of judgment and order dated January 25,2001 (Annexure2 to the writ petition). The Delegated Authority recorded its order of allotment in favour of respondent No. 4 and directed further proceedings to be taken with regard to vacant accommodation and fixed January 30,2001. It appears that on the basis of the

said order Girdhari Lal Pathak, petitioner filed a release application also under Section 16 of the Act which is allowed by means of the judgment and order dated January 31, 2001 (Annexure 3 to the writ petition). The release application has been allowed with the condition that it shall not be allowed to be used by any person except pilgrims coming for religious purpose. In the meanwhile, respondent No. 4, being aggrieved by the cancellation of the allotment order, filed revision under Section 18 of the Act along with stay application (Paper 5C). The said revision is still pending; but the Revisional Court had allowed the application for stay (Paper 5C) by means of the impugned judgment and order dated January 22, 2001 and fixed March 14, 2001.

3. Heard learned Counsel for the petitioner and Shri Uma Kant, Advocate, who had filed Caveat application on behalf of respondent No. 4.

4. The learned Counsel for the petitioner contends that by passing the interim order the Court below had virtually allowed the revision inasmuch as the allotment order has been revived and consequently giving a right to respondent No. 4 to occupy the accommodation on its basis.

5. Sri Uma Kant, Advocate for respondent No. 4 submits that stay order is justified to protect interest of respondent No. 4. There is nothing on record to show that respondent No. 4 got de facto possession of the accommodation in question by enforcing the aforementioned allotment order in his favour on or before January 25, 2001. The Court below, while considering operation of the order, did notice that parties were contesting regarding their status as owner/landlord. Moreover, by passing the said order, the order of release obtained by the petitioner has been set at naught. In my opinion, the purpose of passing interim order could not be to allow impliedly the revision itself by reviving the allotment order at the interim stage. Interest of respondent No. 4 could be well protected if the Appellate Court would have directed the parties to maintain status quo.

6. Be that as it may be, no party can be allowed to take undue advantage in future on the basis of interim order like the one in the present case.

7. In view of the above, I quash the interim order dated February 2, 2001 (Annexure 4 to the writ petition) with direction to the parties to maintain status quo and subject to the order being passed by the Revisional Court in future finally after adjudicating the rights of the parties. Respondent No. 2 is directed to decide the revision before it expeditiously preferably within four months of receipt of certified copy of this order.

8. Writ petition stands allowed.

9. No costs. Petition allowed.