

**(2019) 05 UK CK 0174**

**In the Uttarakhand High Court**

**Case No : Writ Petition (M/S) No. 1670 Of 2014**

Harish Kumar Gupta

APPELLANT

Vs

Vidyawati & Others

RESPONDENT

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**Date of Decision : 15-05-2019**

**Acts Referred:**

Uttar Pradesh Urban Buildings (Regulation Of Letting, Rent & Eviction) Act, 1972 —  
Section 12

Uttar Pradesh Reorganisation Act, 2000 — Section 35

**Citation : (2019) 05 UK CK 0174**

**Hon'ble Judges : Sudhanshu Dhulia, J**

**Bench : Single Bench**

**Advocate : Neeraj Garg, Arvind Vashishta, Kaushal Pandey**

**Final Decision : Disposed Off**

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## **Judgement**

Sudhanshu Dhulia, J

1. The petitioner before this Court has challenged the order dated 12.06.2014 which has been passed by the District Judge, Dehradun in Miscellaneous Case No.132 of 1983 arising out of the proceedings under the U.P. Urban Buildings (Regulation of Letting, Rent & Eviction) Act, 1972 (from hereinafter referred to as "the Act").

2. Brief facts of the case are that a vacancy was declared under Section 12 of the Act by the Rent Control Eviction Officer and subsequently on an application moved by the landlord for the release of the premises, the premises was released in favour of the landlord i.e. the present petitioner before this Court on 11.03.1982. Against this order, the prospective allottee filed a revision before the learned District Judge, Dehradun, which was dismissed on 05.05.1982. The prospective allottee challenged that order in a writ petition being Civil Miscellaneous Writ Petition No.8926 of 1982, filed before the High Court of Judicature at Allahabad, which was also dismissed vide order dated 11.03.1983. Thereafter, after a delay of more than one year, the erstwhile tenant filed a

belated revision before the revisional court which was dismissed on 12.03.1984. Against the order dated 12.03.1984 a writ petition being WPMS No.5674 of 1984 was filed before the High Court of Judicature at Allahabad. Later the case stood transferred before this Court under Section 35 of the Uttar Pradesh Reorganisation Act, 2000 and ultimately the said writ petition was allowed by a learned Single Judge of this Court on 14.12.2011. The relevant portion of the said judgment reads as under:-

"Having heard the learned counsel for the petitioner, the court finds that only notice through U.P.S. was sent by which it cannot be said that the petitioner was served. When the service of the notice has been rebutted, such presumption of service comes to an end and, thereupon, it was upon the landlord to prove that the sitting tenant had notice of the proceedings. The revisional court could not rely upon the endorsement made in a diary. It cannot be said that the alleged diary belongs to the petitioner and the diary cannot conclusively prove that the endorsement related to this vacancy and the release proceedings.

In the light of the aforesaid, the court is of the opinion that the order of revision cannot be sustained and is quashed. The writ petition is allowed. The matter is remitted to the revisional court to decide the matter afresh in accordance with law."

3. Thereafter, the matter was again heard by the revisional court i.e. the District Judge, Dehradun who has allowed the delay condonation application vide its order dated 12.06.2014. However, the matter has not been heard in the revision.

4. As of now these proceedings have been stayed due to the pendency of the present writ petition before this Court as the Court has permitted the petitioner to move an adjournment application before the court below till the pendency of the present writ petition before this Court.

5. At this stage, it would be futile to go into the fact whether the delay condonation application was rightly allowed or not. The fact, however, remains that the matter has to be ultimately decided on merits, and it must be decided expeditiously as enough time has already been lost.

6. In view thereof, no interference is called for in the matter. The matter is remanded back to the court concerned which shall make every possible effort to dispose of the pending revision within a period of three months from the date a certified copy of this order is produced before it. It is made clear that under no condition, adjournments shall be granted by the court to any of the parties. In case the court comes to the conclusion that an adjournment is very necessary, then a short adjournment can be granted, that too, preferably on cost.

7. This Court has also been apprised by the learned counsel for the petitioner that other matters which arise out of the civil suit and contempt proceedings relating to the same property are pending before the District Judge, Dehradun. For an expedite and proper disposal of the matter, the learned counsel for the

petitioner submits that the petitioner would move a proper application including an application for transfer, if need so arises, so that all the matters be connected together and disposed of within a stipulated time as fixed by this Court.

8. The writ petition stands disposed.