
(1977) 09 AHC CK 0039
In the Allahabad High Court
Case No : Writ Petition No. 2218 of 1975

L.K. Nelson

APPELLANT

Vs

The District Judge and Another

RESPONDENT

Date of Decision : 29-09-1977

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 — Section 22
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Rules, 1972 — Rule 7, 7(2), 7(4)

Citation : (1978) AWC 12

Hon'ble Judges : K.N. Singh, J

Bench : Single Bench

Advocate : S.S. Bose, for the Appellant;

Final Decision : Allowed

Judgement

K.N. Singh, J.—The Petitioners filed appeal before the District Judge against the order of allotment dated 23-6-75, but certified copy of the order was not filed along with the memo of appeal. The Petitioner however made an application and an affidavit stating therein that the certified copy of the order of allotment was not available although he had applied for copy. In his affidavit the Petitioner had stated that the accommodation in question had been allotted to Pratap Narain Pandey on 23rd June, 1975. The learned District Judge by his order dated 18th July, 1975 rejected the Petitioner's appeal by one-line order saying: "Copy of order not filed. Memo is rejected." By another order of the same date the District Judge rejected the Petitioner's application filed along with the memo of appeal explaining facts and circumstances under which the Petitioner could not file a certified copy of the allotment order. The Petitioner has challenged the validity of the two orders passed by the District Judge.

2. Admittedly, appeal against the order of allotment lies before the District Judge u/s 22 of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act,

1972. Rule 7 framed under the Act makes provision for filing memo of appeal along with a copy of the order against which appeal is filed. Rule 7(2) provides that every such memo of appeal shall be accompanied by a copy of the order appealed against and shall set forth concisely the grounds of objection. Sub-rule (4) of the said rule lays down that any copy to be filed under this rule shall ordinarily be a certified copy and where it is not reasonably practicable or convenient to file such a copy, the Appellant shall give reasons for not being able to file such certified copy and shall also file an affidavit verifying the contents of the order of its operative parts. Thus Rule 7(4) permits filing of appeal without a certified copy of the order against which appeal may be directed but the Appellant is required to give reasons for not filing a copy of the order and he is required to file an affidavit verifying the contents of the order or its operative part. Where reasons are given for the absence of the certified copy of the order and operative part of the order is disclosed in the affidavit filed along with the memo of appeal, the appeal would be competent. The filing of the certified copy along with the memo of appeal is not mandatory.

3. In the instant case, the Petitioner had given reasons explaining the absence of certified copy. He had filed an affidavit giving the contents of the operative part of the order of allotment. In the circumstances, the Petitioner had complied with the requirement of Rule 7(4). His appeal, therefore, could not be dismissed in the manner in which the learned District Judge dismissed the same.

4. I, therefore, allow the petition and quash the two impugned orders of the District Judge dated 18th July, 1975, and direct him to rehear and decide the Petitioner's appeal in accordance with law. The parties shall bear their own costs.