

(1999) 07 AHC CK 0107

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 29228 of 1998

Maresh Prasad Nigam

APPELLANT

Vs

**Prescribed Authority/Judge Small Causes Court,Jhansi and
Another**

RESPONDENT

Date of Decision : 20-07-1999

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21(I)(a)

Citation : (1999) 07 AHC CK 0107

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

Final Decision : Dismissed

Judgement

A.K. Yog, J.—This Petition has been filed by the tenant challenging order dated May 25, 1999 whereby the Prescribed Authority, exercising its powers under Section 21(I)(a), UP. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (U.P. Act No XIII of 1972) (for short called the "Act") allowed landlord's application for issuing commission in order to obtain spot inspection report so as to enable it to ascertain the factual position.

2. The tenant's objections against the said application have been rejected. By the impugned order the Prescribed Authority has appointed a commissioner requiring him to submit its report by July 20,1999. Certified copy of the said order was obtained, as the record shows, on May 31, 1999. Writ petition has not been filed promptly. The Writ Petition itself is dated 2nd June, 1999 and it was got reported on 7th July, 1999. It has been filed on 19th July, 1999 and placed before this Court today (20th July, 1999) i.e. on the date fixed by the Prescribed Authority for submission of commissioner's report. The petitioner, who is tenant, is resorting to delaying tactics.

3. There is no explanation as to why writ petition was not filed between 771999 to 1971999 particularly when petitioner was conscious that it would be

infructuous if matter was not heard on or before 19th July, 1999. The petition suffers from laches.

4. Moreover, by appointing commission, Court has not prejudiced substantial rights of the parties. The matter is still to be heard and decided by the Prescribed Authority. Issuance of commission will help the Prescribed Authority in ascertaining factual position. Thus, on merits no ground for interference is made out.

5. The Writ Petition is devoid of merits and dismissed summarily at admission stage.

6. Office is directed to send a copy of this judgment to the Respondent No. 1 (Prescribed Authority, Jhansi) Court within one week from today.