
(2002) 05 AHC CK 0069
In the Allahabad High Court
Case No : C.M.W.P. No. 19551 of 2002

Manjeet Singh

APPELLANT

Vs

Additional District Judge and Others

RESPONDENT

Date of Decision : 13-05-2002

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 16, 21

Citation : (2002) 3 AWC 1905

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : Kailash Nath Kesharwani, for the Appellant;

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—Heard Shri Kailash Nath Kesharwani, learned counsel for the petitioner and the learned standing counsel representing the respondents.

2. Learned counsel for the petitioner has argued that the provisions of U. P. Act No. 13 of 1972, are not applicable to the building in question, which admittedly was let out in the year 1993 without there being any allotment order. The next contention of the learned counsel for the petitioner is that under the rules, the guidelines for the District Magistrate in the matter of allotment are prescribed that no allotment can be made for the vend of liquor, therefore, private agreement between the petitioner and landlord for letting the shop is enforceable. The impugned order is admittedly an interlocutory order, which has been passed ex parte and by that, petitioner has been restrained from using the shop in question by the revisional authority.

3. The brief facts giving rise to the filing of present writ petition are that the respondent No. 3 is the owner of the building governed by the U. P. Act No. 13 of 1972, which was let out to the petitioner for running the shop in the year 1993. This letting out the shop was contrary to law, namely, violation of the provision of

U. P. Act No. 13 of 1972. However, an application for release has been filed by the landlord and the application was considered according to the arguments raised during proceeding and the same was allowed. Against this order, petitioner preferred a revision, which is pending and the interim order was passed. During the pendency of the aforesaid revision, an application was filed by the landlord that the petitioner-tenant is trying to forcibly enter into the shop and he may be restrained from taking forcible occupation and further using the shop for vend of liquor in the shop in question. On the aforesaid application, revisional court has passed the Impugned order restraining the petitioner, which according to the petitioner is without giving him any opportunity of being heard. It is settled law that revisional court has power to pass interlocutory order or interim order, even ex parte order. Petitioner will now have an opportunity to appear before the revisional court after making ground for vacating the interim order. The impugned order is an interlocutory order and normally, this Court will not interfere with the interlocutory order in exercise of its jurisdiction under Article 226 of the Constitution of India as the person is using the shop in question for vending country liquor, which otherwise is prohibited by law.

4. In this view of the matter, the petition has no force and is accordingly dismissed. However, there will be no order as to costs.