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**(2012) 05 AHC CK 0049**  
**In the Allahabad High Court**  
**Case No : Writ Petition No. 120 of 2011**

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|----------------------------------------------------|----|------------|
| Manoj Kumar Agarwal and Another                    | Vs | APPELLANT  |
| Additional Chief Judicial Magistrate, Court No. 18 |    | RESPONDENT |

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**Date of Decision :** 15-05-2012

**Acts Referred:**

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —  
Section 20, 21, 21(1)(a)

**Citation :** (2013) 1 RCR(Rent) 414

**Hon'ble Judges :** Ritu Raj Awasthi, J

**Bench :** Single Bench

**Advocate :** Arif Khan and Mohiuddin Khan, for the Appellant; Manish Kumar and Sharad Pathak, for the Respondent

**Final Decision :** Allowed

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## Judgement

Ritu Raj Awasthi, J.—Counter affidavit filed today is taken on record. Learned counsel for the petitioners says that he does not want to file rejoinder affidavit. With the consent of parties" counsel the writ petition has been heard finally.

2. Mr. Mohd. Arif Khan, learned Sr. Advocate assisted by Mr. Mohiuddin Khan, learned counsel for the petitioners submits that the proceedings under Sections 20 and 21 of U.P. Urban Buildings (Regulations of Letting, Rent & Eviction) Act 1972 (hereinafter referred to as the "Act") are altogether different and on the basis of the order passed in SCC Revision No. 4 of 2011 arising out of the proceedings u/s 20 of the said Act, the proceedings relating to Section 21(1)(a) of the Act cannot be stayed. However, by the impugned order dated 16.8.2011, the learned trial court has observed that the order of the High Court passed in SCC Revision is relating to the property in question and considering the order of the High Court the application dated 2.8.2011 is disposed of and the parties shall inform further order passed in the Civil Revision No. 4 of 2011 on the next date.

3. Contention is that the learned Court below has refused to proceed to decide the application u/s 21(1)(a) of the Act on the basis of the order dated 13.1.2011

passed in SCC Revision No. 4 of 2011, although the proceedings u/s 21(1)(a) of the Act are altogether different to the proceedings arising out of Section 20 of U.P. Urban Buildings (Regulations of Letting, Rent & Eviction) Act 1972.

4. Mr. Sharad Pathak, learned counsel appearing for the opposite party No. 2, on the other hand, submitted that the dispute relates to the same property and it is amongst the same parties. The application for arrears of rent and eviction u/s 20 of the Act as well as the application for release u/s 21(1)(a) of the Act were moved with respect to the same property i.e. the shop which was rented to his client. The decision in SCC Revision No. 4 of 2011 would have the bearing on the decision of the Court on the application moved u/s 21(1)(a) of the Act, 1972.

5. I have considered the submissions made by the parties' counsel.

6. I am of the considered opinion that the proceedings under Sections 20 and 21 of the Act, are altogether different proceedings. u/s 20 of the Act the suit is filed for arrears of rent and eviction whereas the suit u/s 21(1)(a) of the Act is filed for release of the property sought under the bonafide need and comparative hardship.

7. The perusal of impugned order indicates that the opposite party No. 2 had moved some application for staying the proceedings on the basis of the order dated 13.1.2011 passed in the SCC Revision No. 4 of 2011 by this Court. The learned Court below taking into consideration the order dated 31.1.2011 has decided the said application and stayed the proceedings directing the parties to apprise the Court about further orders passed in the said SCC Revision.

8. By order dated 20.9.2011, the Court had passed the order to the effect that the learned Court below shall proceed with the case. The order dated 20.9.2011 is reproduced hereunder:

Notice on behalf of opposite party No. 1 has been accepted by Mr. Manish Kumar, Advocate.

Issue notice to opposite party No. 2, both ways. In case the steps are taken, the office shall provide dasti notice to the petitioners to serve the opposite party No. 2 outside the Court.

List this case on 29.9.2011.

9. Mr. Mohd. Arif Khan, Senior Advocate, assisted by Mr. Mohd. Aslam Khan, learned counsel for the petitioners submitted that the proceedings under Sections 20 and 21 of the U.P. Urban Buildings (Regulations of Letting, Rent and Eviction) Act, 1972 (hereinafter referred to as the Act), are altogether different and on the basis of the order passed in SCC Revision No. 4 of 2011 arising out of the proceedings u/s 20 of the said Act, the proceedings relating to Section 21(1) (a) of the Act cannot be stayed. By the impugned order, the opposite parties have been able to get the proceedings stayed, which is wrong and illegal.

The perusal of the order indicates that the opposite parties have moved some

application for staying the proceedings on the basis of the order dated 13.1.2011 passed in SCC Revision No. 4 of 2011 by this Court, the learned lower court by the impugned order has decided the said application and listed the case on 20.9.2011 with the observation that the status of the said revision shall be informed on the next date.

In my opinion, prima-facie, the proceedings arising out of Section 21(1)(a) of the Act shall not be stayed on the basis of the order passed in the aforesaid Revision, as such, as an interim measure it is hereby provided that the learned lower court shall proceed with the SCC Case No. 1 of 2007, however, the opposite party No. 2 shall not be evicted, which shall be subject to the final decision in the aforesaid revision.

10. I am of the considered opinion that the proceedings of the SCC Revision would not in any manner hinder the proceedings u/s 21(1)(a) of the Act, as such the order impugned is not sustainable in the eye of law. The writ petition is allowed.

The order impugned dated 16.8.2011 (Annexure-5) is hereby set aside with direction to the learned Court below to decide the case No. 01 of 2007 on merits in accordance with law, expeditiously, say within a period of six months from the date a certified copy of this order is produced before it.