
(2014) 12 UK CK 0001

In the Uttarakhand High Court

Case No : Writ Petition No. 2685 of 2014 (M/S)

Mehbood Hasan Ansari

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 04-12-2014

Acts Referred:

Citation : (2015) 2 UC 1347

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Pradeep Kumar Chauhan, Advocate for the Appellant; S.S. Chauhan, Deputy Advocate General, Advocate for the Respondent;

Final Decision : Disposed off

Judgement

Alok Singh, J.

1. Petitioner, who is working as Assistant Teacher in Government Primary School, was allotted Government Quarter No. F.H. 24/7, Jadoogar Road, Roorkee, District Haridwar for one year only, vide order dated 31.10.2008, at the rate of Rs. 630/- per month plus Rs. 13/- towards water charges per month. Petitioner did not vacate the house in question after expiry of one year. However, allotment of the petitioner was cancelled vide order dated 7.7.2012. Vide letter dated 9.7.2012, petitioner was asked to vacate the house in question and to handover actual physical vacant possession to the authorities on or before 17.7.2012. Petitioner was further informed that since petitioner failed to vacate the house in question after expiry of one year from the date of original allotment, therefore, petitioner had to pay penal rent at the rate of Rs. 2,606/- per month from 13.11.2009. Petitioner neither paid the penal rent nor vacated the house in question, therefore, recovery citation was issued against the petitioner for recovery of Rs. 1,50,887/- plus 10 per cent recovery charges. Feeling aggrieved, petitioner has approached this Court by way of present petition. Undisputedly, allotment of the petitioner was cancelled vide order dated 7.7.2012 and vide letter dated 9.7.2012, petitioner was asked to handover peaceful vacant actual possession to

the authorities on or before 17.7.2012. Therefore, in my considered opinion, possession of the petitioner cannot be said to be unauthorized even after expiry of period of one year till 17.7.2012, the ultimate date given to the petitioner vide letter dated 9.7.2012 to handover actual peaceful vacant possession to the authorities. Therefore, no penal rent can be asked to be paid by the petitioner prior to 17.7.2012. Possession of the petitioner over the Government quarter can be said to be unauthorized with effect from 18.7.2012, therefore, petitioner has to pay penal rent with effect from 18.7.2012.

2. Mr. Pradeep Kumar Chauhan, learned counsel appearing for the petitioner, submits that academic session of school going children of the petitioner is till 31.3.2015, therefore, petitioner should be granted time to handover actual peaceful vacant possession to the authorities till 30.4.2015 and petitioner shall handover peaceful actual physical possession to the authorities on or before 30.4.2015.

3. Mr. Pradeep Kumar Chauhan, learned counsel for the petitioner, further contends that penal rent as asked by the authorities with effect from 18.7.2012, as held by this Court hereinbefore, shall be paid by the petitioner to the authorities on or before 31.1.2015 and penal rent for the subsequent period till actual physical possession is handover by the petitioner to the authorities till 30.4.2015 shall be paid at the time of delivering the possession to the authorities i.e. on or before 30.4.2015. Mr. Chauhan further contends that civil suit filed by the petitioner shall be withdrawn by the petitioner.

4. Present petition, thus, stands disposed of with the direction that petitioner shall handover peaceful actual vacant possession of accommodation in question to the authorities on or before 30.4.2015. Civil suit filed by the petitioner shall stand dismissed as withdrawn. If petitioner fails to handover possession till 30.4.2015 or fails to pay penal rent as well as arrears of rent, authorities shall be at liberty to proceed against the petitioner in accordance with law. CLMA No. 13849 of 2014 also stands disposed of accordingly.