
(2009) 11 AHC CK 0254
In the Allahabad High Court

Mohd. Manzoor Ali

APPELLANT

Vs

Xvi Additional D.J. and Others

RESPONDENT

Date of Decision : 06-11-2009

Acts Referred:

Citation : (2009) 11 AHC CK 0254

Hon'ble Judges : Shishir Kumar, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Shishir Kumar, J.—As the limited prayer was made in the present writ petition, therefore, this writ petition was disposed of finally yesterday by passing the following order:

Heard the learned Counsel for the petitioner and have perused the record. This writ petition has been filed for quashing Form- C dated 22.10.2009. It appears that the respondent- landlord filed an application u/s 16 of Act No. XIII of 1972. An order of vacancy was passed against the various tenants. Certain tenants living in the said accommodation filed a writ petition before this Court and ultimately the writ petition was allowed but the petitioner instead of filing the writ petition, has filed a revision before District Judge which is still pending and the revision was registered as Rent Revision No. 10 of 2008. Learned Counsel for the petitioner submits that the revision has been admitted and notices have been issued to the respondents for consideration of stay application filed by petitioner. Respondent deliberately is avoiding to appear before the Court and has initiated a proceeding to eject the petitioner from the premises in dispute and manipulated to get Form-C issued on 22.10.2009. In such circumstances the petitioner submits that he has been compelled to file the present writ petition.

An argument has been raised on behalf of the petitioner that this being a landlord and tenant matter, it was obligation on the part of the revisional court to stay the ejectment of the petitioner as soon as the revision was admitted but

instead of passing an order staying the ejectment of the petitioner, dates after dates are being fixed and the effect of the inaction of the revisional court is that there is an apprehension that the petitioner can be ejected on the basis of Form-C issued against the petitioner for taking possession.

In such circumstances learned Counsel for the petitioner submits that till the pendency of the revision, the ejectment of the petitioner may be stayed. Reliance has been placed upon two judgments of the Apex Court in the case of Mool Chand Yadav and Anr. v. Raza Buland Sugar Co. Ltd. Rampur and Ors. reported in 1983 A.W.C. 121 (SC) and in the case of Bhagwan Shankar Bajpayee Vs. District Judge and Others,

Taking support of the aforesaid judgment, learned Counsel for the petitioner submits that the judicial approach requires that during pendency of a case, operation of the order having civil consequences must be suspended. More so, when revision has been admitted.

In view of the aforesaid fact, this writ petition can be disposed of finally directing the revisional court i.e. District Judge, Kanpur Nagar to decide the revision filed by the petitioner as Rent Revision No. 10 of 2008 within a period of six months from the date of production of a certified copy of this order before him. It is also made clear that till the disposal of the revision filed by the petitioner, the petitioner will not be ejected from the premises in dispute. No order is passed as to costs.

Let a copy of this order be issued to the learned Counsel for the petitioner, if possible within 24 hours on payment of usual charges.

2. Before signing the aforesaid order, learned Counsel appearing for the respondents requested the Court to hear the matter on behalf of the respondents on the ground that he has already filed a writ petition before this Court and this Court has passed an order on 9.10.2009 in Writ Petition No. 52514 of 2009 directing the District Magistrate to issue Forms-C & D for the purpose of taking possession of the property in dispute. In such circumstances, this case was ordered to be listed today.

3. I have heard the learned Counsel for the parties and in the facts and circumstances of the case, the aforesaid order which I have already passed yesterday, will remain the same subject to condition that the order dated 9.10.2009 as it relates to a direction to the District Magistrate for issuance of Forms "C" & "D" shall be treated to be suspended till the decision of the revision filed by the petitioner.

4. The writ petition is disposed of accordingly.

5. Let a copy of this order be issued to the learned Counsel for the petitioner, if possible within 24 hours on payment of usual charges.

6. No order is passed as to costs.