

(2010) 10 AHC CK 0184

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 62587 of 2010

Narendra Kumar

APPELLANT

Vs

Prescribed Authority, Chandausi, Moradabad

RESPONDENT

Date of Decision : 12-10-2010

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21(1)(a), 21(1)(b), 28
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Rules, 1972
— Rule 22

Citation : (2010) 10 AHC CK 0184

Hon'ble Judges : Rakesh Tiwari, J

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard Sri Anil Tiwari, counsel for the petitioner and perused the record. This petition is directed against order dated 22.7.2010 passed by Civil Judge (S.D.)/Prescribed Authority, Chandausi, Moradabad in P.A. case no. 3 of 2009. The petitioner has prayed for quashing of the aforesaid order and issuance of a writ in the nature of mandamus commanding the respondent no. 1 to decide P.A. case no. 4 of 2009 filed under section 28 of U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (hereinafter referred to as the Act), in accordance with law separately without waiting for conclusion of the proceedings under section 21 of the Act.

2. The order has been challenged on the ground that P.A. case no. 4 of 2009, under section 28 of the Act and P.A. case no. 3 of 2009, under section 21(1)(a) and 21(1)(b) of the Act, were filed under different sections of the Act. The petitioner also filed case no. 6 of 2005 before Civil Judge (J.D.), Chandauli, for permanent injunction for directing respondent no. 2 not to use water connection on the roof of the shop so that water does not leak or seep into the roof. This suit was decreed in terms of compromise between the petitioner and respondent no. 2.

3. According to the petitioner, the court below has wrongly interpreted Rule 22 of the Rules of 1972 framed under the Act and has passed the impugned order directing for consolidation of both the cases i.e. P.A. case no. 3 and 4. It is stated that the proceeding under section 28 of the Act is summary in nature to compel the landlord to discharge his duties to keep the premises given on rent in good condition, whereas in the proceedings under section 21(1)(a) of the Act, the bonafide need of the landlord and comparative hardship is to be determined. Under Section 21(1)(b), the court has to record a finding as to whether the building is in dilapidated condition or not i.e. if it can be occupied with minor repairs or require either extensive/major repairs including demolition and reconstruction.

4. The court below by the impugned order has found that questions of law involved in both the cases, are same and they would require same evidence for decision and hence on this ground both the cases have been clubbed together for hearing. The court has further held that the question, whether minor repairs are required in the building or it requires extensive repairs or demolition, is to be decided in the matter, hence has consolidated the two P.A. case no. 3 of 2009 and P.A. case no. 4 of 2009.

5. The petitioner has come up in this petition against an inter locutory order at this stage. By the order of consolidation finding of facts involved in the two cases aforesaid has been determined. It is an inconspicuous order by which rights of any party has not been adjudicated. There is no illegality or infirmity in the impugned order by which both the cases i.e. P.A. case nos. 3/2009 and 4 of 2009, have only been clubbed together for hearing as evidence and points of law in both the cases requiring adjudication of dispute are the same.

6. For all the reasons stated above, the order impugned does not require any interference under Art. 226 of the Constitution at this stage. The writ petition is accordingly dismissed. No order as to costs.