

**(2010) 08 AHC CK 0346**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 47799 of 2010

National Auto Sales and others

APPELLANT

Vs

Firoz Ahmad

RESPONDENT

---

**Date of Decision :** 13-08-2010

**Acts Referred:**

**Citation :** (2010) 08 AHC CK 0346

**Hon'ble Judges :** Rakesh Tiwari, J

**Final Decision :** Dismissed

---

## **Judgement**

Rakesh Tiwari, J.—On 11.8.2010 on the prayer of counsel for the petitioner, this case was ordered to be taken up on 13.8.2010 i.e. today. Matter is taken up in the revised list.

2. Facts of the case in brief are that on the basis of an agreement deed executed between the tenant petitioners and landlord respondents in respect of a shop, godown and open land, the petitioner came into possession over the said accommodation and started their business. After expiry of the tenure of the agreement i.e. 11 months, according to the petitioner, an oral agreement is said to have been made between the parties to continue the petitioners over the shop in question.

3. It appears that landlord respondent filed a suit for dispossession of the petitioners from the shop. In paragraph no. 6 of the plaint filed by the landlord respondent it has been stated that the land over which the shop in question is situated comes under village Bharuhna, Pergana Kantit, Tehsil Sadar, Mirzapur, has been an agricultural land on which the construction has been made after purchasing it in the year 2000 and therefore Act No. 13 of 1972 is not applicable over the land in dispute. The tenant petitioners filed their objection stating that respondent is not the sole owner of the property in dispute as stated by him but is co owner alongwith his mother Haseena and that after expiry of the period of 11 months, the petitioners proposed for its renewal on which mother of the respondent gave her consent to the petitioners to be continued over the rented

land in question.

4. During pendency of the suit, the tenant petitioners filed two applications, (i) that they are still in possession over the land in question as per oral agreement which is required to be verified by the court Amin which is necessary for proper adjudication of the case and (ii) prayer was made to the court below to direct the respondent to restore electricity connection to them as per the oral agreement. Both these applications have been rejected by the impugned order dated 8.7.2010 passed by the District Judge, Mirzapur, against which the present writ petition has been filed.

5. It is apparent that the tenant petitioners had entered into agreement for taking the accommodation in question for a period of 11 months. Mother of the landlord respondent was not a signatory of the agreement for giving the property in question on rent, hence it cannot be said that petitioner tenant can continue in possession after 11 months as his mother has consented. The petitioner tenant cannot claim hold over the property after expiry of period of agreement until and unless it is renewed. Admittedly, the petitioner has also not paid the rent after expiry of period of 11 months in the agreement and for this reason also cannot claim himself to be a tenant of the respondent. This petition having been filed challenging the interlocutory order on the applications, paper No. 23 Ga and 28 G, does not require any interference at this stage under Art. 226 of the Constitution of India.

6. For the reasons stated above, the orders impugned do not warrant any interference in extra ordinary powers under writ jurisdiction. The writ petition is accordingly dismissed. No order as to costs.