

(2013) 02 AHC CK 0151
In the Allahabad High Court
Case No : Rent Control No. -17 of 2013

Rajesh Kumar Gupta

APPELLANT

Vs

Prescribed Authority/Civil Judge (Sr.Div.) Court No.10 & Ors.

RESPONDENT

Date of Decision : 01-02-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 26 Rule 10, Order 26 Rule 9

Citation : (2013) 02 AHC CK 0151

Hon'ble Judges : Vinay Kumar Mathur, J

Final Decision : Allowed

Judgement

Vinay Kumar Mathur, J.

Heard learned counsel for the petitioner and Shri Bireshwar Nath, learned counsel, representing respondent nos. 2 and 3 and Shri Manish Kumar, Advocate, representing respondent no. 1 and perused record.

The instant petition under Article 226 of the Constitution of India has been preferred by the defendantpetitioner against the order dated 22.11.2012 passed by the respondent no. 1, whereby the application of the petitioner under Order 26, Rule 9 and 10 for commission has been rejected. It has been contended that a plea was taken by the petitioner that the applicant has several shops. To verify this fact, a request has been made for issuing a commission. The court below has rejected the application on the ground that the application has been moved for causing delay in disposal of the case as evidence of the defendant was in progress.

Learned counsel for the petitioner has submitted that for bringing the correct facts on record the report of the commission was essential. The impugned order is based on conjectures and surmises. Earlier to this application, no other application for commission has been moved.

Learned counsel for the respondents nos. 2 and 3 has fairly conceded that commission may be issued and suitable directions for early disposal of the case

under Section 21(1)(a) of U.P. Urban Buildings (Regulation of Letting Rent and Eviction) Act, 1972 be also made so that the proceedings may come to logical conclusion at an early date.

In view of the submissions of learned counsel for the respondents nos. 2 and 3 and in view of the fact that it appears necessary that the correct factual position be placed on record, the petition is allowed and the impugned order is set aside. The court below will dispose of the application for issuance of commission afresh within 15 days from the date a certified copy of this order is placed before it, and after the receipt of the report commission shall dispose of the P.A. Case No. 3/2012 expeditiously, preferably within a period of six months.