

(2011) 03 AHC CK 0223
In the Allahabad High Court
Case No : Rent Control No. 177 of 2010

Ram Dularey

APPELLANT

Vs

A.C.M.II/Rent Control & Eviction Officer, Lucknow and others

RESPONDENT

Date of Decision : 24-03-2011

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 18

Citation : (2011) 03 AHC CK 0223

Hon'ble Judges : Anil Kumar, J

Final Decision : Allowed

Judgement

Anil Kumar,J.

Heard Sri R.P. Singh, learned counsel for the petitioner and Sri R.N. Shukla, learned counsel for the respondents.

With the consent of the parties' counsel, writ petition is heard finally at the admission stage.

Controversy involved in the present case relates to Shop no. 3 situated in a premises having Municipal No.251/154 at Mohalla Tedhi Bazar, Rakabganj Chowk, Lucknow owned by one Smt. Shanti Devi wife of late Sundar Lal.

In respect to the same, petitioner(Sri Ram Dularey) moved an application for allotment, moreover it is submitted on behalf of the petitioner that landlady has given her consent for allotment of the shop in question in his favour, accordingly vide order dated 26.07.2002 allotted in favour of the petitioner.

Thereafter, a review petition under Section 16(5) of the U.P. Act No. XIII of 1972 filed by respondent nos. 2 & 3 on 19.12.2003 rejected by order dated 18.10.2010, passed by respondent no. 1.

Aggrieved by the same, a Writ Petition (W.P.no.178 of 2010, Ajay Kumar Gupta and another Vs. Addl.City MagistrateII/Rent Control & Eviction Officer, Lucknow

and Another), however on the request of learned counsel for the petitioner, vide order dated 03.01.2011 dismissed as not pressed.

It is further submitted on behalf of the parties, that thereafter, respondent nos. 2 & 3 again moved an application for recall of the order dated 18.10.2010 in which a stay order granted by respondent no. 1, as a result of which the possession for taking the shop in question, allotted in favour of the petitioner vide order dated 26.07.2002, has been stayed.

In addition to above said facts, respondent nos. 2 & 3 also filed a revision under Section 18 of U.P. Act no. XIII of 1972 alongwith an application under Section 5 of Limitation Act before the revisional court, pending for adjudication.

In view of the above said factual background, learned counsel for the parties agreed that in case, the revisional authority is directed to decide the revision filed by respondent nos. 2 & 3 within stipulated period in accordance with law and till then the status quo in respect to the controversy involved in present case is maintained, order dated 02.12.2010 passed by respondent no. 1(A.C.M.II/Rent Control and Eviction Officer(RCEO), Lucknow) may be set aside.

For the foregoing reasons, without entering into factual matrix of the present case on merit, the present writ petition is allowed, order dated 02.12.2010 passed by respondent no. 1 (Annexure no. 1 to the writ petition) is set aside with the direction that the revisional authority shall decide revision filed by respondent no. 2 & 3 against order dated 26.07.2002 in accordance with law after hearing the parties, expeditiously preferably within a period of three months from the date of receiving certified copy of this order.

Till the period of three months or till the decision of revision, status quo in respect to possession/allotment of shop in question as exists today shall be maintained by the parties.

With the above observation, writ petition is allowed.