
(2010) 02 AHC CK 0247
In the Allahabad High Court
Case No : Writ C. No. 5948 of 2010

Rama Kant Diwedi

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 08-02-2010

Acts Referred:

Uttar Pradesh Urban Planning and Development Act, 1973 — Section 14, 15

Citation : (2010) 02 AHC CK 0247

Hon'ble Judges : Prakash Krishna, J and Yogesh Chandra Gupta, J

Final Decision : Allowed

Judgement

Prakash Krishna and Yogesh Chandra Gupta, JJ.—Challenging the order dated 22.1.2010 passed by the Deputy Secretary (Enforcement4), Kanpur Development Authority in respect of premises 94 Ganga Nagar, Kanpur the present writ petition has been filed whereby the authority has ordered the sealing of the aforesaid premises in exercise of powers conferred on it under section 14/15 of U.P Urban Planning and Development Act 1973.

2. Heard the learned counsel for the parties and Shri Ramesh Upadhyaya, learned counsel for the respondents.

3. In paragraph 24 of the writ petition, it has been stated that no notice or opportunity was given to the petitioner as required under section 27 and 28 of U.P Urban Planning and Development Act 1973 before passing of the impugned order. The reply of the said paragraph has been given in paragraph 16 of the counter affidavit of Shri Arun Tripathi filed today.

4. We find that the allegations made in paragraph 24 of the writ petition that no opportunity was given to the petitioner before passing of the interim order have not been denied or controverted in the counter affidavit. The tenor of the order also shows that the said order was passed on the basis of some report of the Junior Engineer, ex parte.

5. The impugned order has a drastic effect on the rights of the petitioner to hold

and enjoy of the property. It has civil consequences and such an order should not be passed without giving any opportunity of hearing to the owner.

6. Obviously, the impugned order has been passed in an arbitrary manner without giving any opportunity of hearing to the petitioner and on the basis of some report of Junior Engineer, a copy of which was not made available to the petitioner. Such an order cannot be allowed to stand. The impugned order dated 22.1.2010 is hereby set aside. A sum of Rs.10,000/ is awarded to the petitioner which shall be paid by the respondents within 15 days.

7. The writ petition is allowed with costs as indicated above.