
(2002) 04 AHC CK 0042
In the Allahabad High Court
Case No : C.M.W.P. No. 54980 of 1999

Rana Bhupendra Singh

APPELLANT

Vs

District Magistrate, Kanpur Nagar and Others

RESPONDENT

Date of Decision : 01-04-2002

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 12, 16

Citation : (2002) 3 AWC 2153(1)

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : R.S. Kushwaha and Veena Singh, for the Appellant; Yasharth, S.C.,
for the Respondent

Final Decision : Allowed

Judgement

Anjani Kumar, J.—It is stated by counsel for the petitioner that the same time will be consumed as in disposing of the stay vacation application, so the matter may be decided finally. Sri Yasharth counsel for the respondent agreed to it. So with the consent of the parties, the matter is being heard and disposed of finally.

2. By means of the present writ petition the petitioner has challenged the orders dated 14.9.1990 and 1.4.1991 whereby the accommodation in dispute which is said to be in occupation of the petitioner, has been declared to be vacant by the second order dated 1.4.1991. It was released on the application of the respondent-landlord and by the third order dated 30.11.1999, the review application of the petitioner has been rejected by the Rent Control and Eviction Officer. In para 10 of the writ petition, the petitioner has categorically asserted that he has not been given any opportunity of hearing before passing of the order dated 14.9.1990 and 1.4.1991. This fact has not been denied in the counter-affidavit. Thus, it is apparent that the said orders have been passed without giving any opportunity to the petitioner which vitiates the whole proceedings before the Rent Control and Eviction Officer.

3. In this view of the matter, the orders dated 14.9.1990 and 1.4.1991 deserve to be quashed on the ground that the same have been passed without giving any opportunity to the petitioner. Since the orders dated 14.9.1990 and 1.4.1991, have been quashed, therefore, the order dated 30.11.1999 also deserves to be quashed and is hereby quashed.

4. Rent Control and Eviction Officer is directed to decide the matter afresh in accordance with law after giving opportunity to the petitioner because the matter is fairly very old and is pending at the stage of Rent Control and Eviction Officer, within three months from the date a certified copy of this order is produced before him.

5. Shri Yasharlh has raised objection that this writ petition ought to have been dismissed on the ground that the order dated 30.11.1999 is revisable u/s 18 of the Act and therefore, petitioner should be relegated to that remedy. This argument of Shri Yasharth is fallacious because the petitioner has been non-suited on the ground in the order that since it is not the order of declaration of vacancy, therefore, he is not entitled to be heard in the matter and the review application u/s 16 (5) is not maintainable. Needless to say that since the parent orders have been passed without affording opportunity of hearing which is contrary to the principles of natural justice and statutory provisions, consequential order is bad in law. This argument of Shri Yasharth is liable to be rejected and is hereby rejected.

6. In view of what has been stated above, the petition deserves to be allowed and is hereby allowed.