
(2011) 11 AHC CK 0252
In the Allahabad High Court
Case No : Writ A. No. 65135 of 2011

Santosh Kumari

APPELLANT

Vs

Rent Control and Eviction Officer, Kanpur and Others

RESPONDENT

Date of Decision : 17-11-2011

Acts Referred:

Citation : (2011) 11 AHC CK 0252

Hon'ble Judges : Shashi Kant Gupta, J

Final Decision : Disposed Of

Judgement

Shashi Kant Gupta,J.

1. This writ petition is directed against the impugned order dated 25. 10. 2011 passed by the District Judge, Kanpur Nagar in Rent Revision No. 69 of 2011, whereby the rent of the disputed premises was enhanced but no order on the stay application was passed.
2. Brief facts of the case are as follows:
3. The petitioner claims himself to be the tenant of the disputed premises which was declared vacant and released in favour of the landlord by order dated 22. 6. 2011. Being dissatisfied with the said order, petitioner filed revision no. 69 of 2011 under Section 18 of U. P. Act No. 13 of 1972 (in short the Act) . The petitioner along with the said revision, also filed an application for staying the orders dated 22. 6. 2011 and 13. 7. 2011. On 22. 9. 2011, the revision was admitted and the notice was issued to the opposite parties fixing 24. 11. 2011. On 18. 10. 2011, petitioner filed an application stating that the notice has been received from A. D. M, City Kanpur for eviction from the disputed premises, as such it was prayed that the operation of the impugned orders dated 22. 6. 2011 and 13. 7. 2011 be stayed.
4. The court directed to place the matter on 25. 10. 2011. On 25. 10. 2011, even though the revision was admitted and the revisional court enhanced the rent

from Rs. 300/ to 1800/ but no interim order was passed by the District Judge either granting the stay order or rejecting the stay application. Hence the present writ petition.

5. Heard learned counsel for the petitioner and perused the record of the case.

6. Bare perusal of the order dated 25. 10. 2011 clearly reveals that after hearing the matter, the court below enhanced the rent from Rs. 300/ to 1800/ per month however, no order on the stay application was passed. The court below in fact should have passed some order on the stay application either rejecting the stay application or granting interim order in favour of the petitioner but nothing was done except enhancing the rent.

7. Learned counsel for the petitioner has submitted that in case interim protection is not granted to the petitioner before the date fixed i. e. 24. 11. 2011, he will be evicted from the disputed premises.

8. Learned counsel for the petitioner has placed reliance on the decision of the Apex Court in the case of Mool Chand Yadav and another versus Raza Buland Sugar Co. Ltd. Rampur and others (reported in AWC 1983, page 121) wherein the Apex Court has held that if orders are challenged and the appeals are pending, one cannot permit a swinging pendulum continuously taking place during the pendency of the appeal, the judicial approach requires that during the pendency of the appeal, the operation of the order having serious civil consequences must be suspended, more so when the appeal is admitted.

9. Considering the facts and circumstances of the case and also the submissions of the learned counsel for the petitioner, this court feels that issuance of notices to the opposite party will unnecessarily delay the proceedings pending before the courts below and no useful purpose would be served by keeping the matter pending before this court. This writ petition is, therefore, disposed of at this stage without issuing notices to the opposite parties no. 2 and 3 with a direction to the concerned court i. e. District Judge, Kanur Nagar to dispose of the stay application of the petitioner pending in revision no. 69 of 2011 on the date fixed i. e. 24. 11. 2011 itself.

10. Learned counsel for the petitioner undertakes that the petitioner will appear before the District Judge in revision No. 69 of 2011 on the date fixed i. e. 24. 11. 2011 and will not seek any adjournment in the matter.

11. Till that date i. e. 24. 11. 2011, the petitioner shall not be evicted from the disputed premises.

12. It is made clear that this court has not expressed any opinion on merit of the case and it will be an independent exercise of the concerned court to pass appropriate order in accordance with law.

13. With this observation, the writ petition stands disposed of.