
(1987) 03 AHC CK 0093

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 5559 of 1987

Smt. Asha Lata Rolston and Another

APPELLANT

Vs

2nd Additional District Judge and Others

RESPONDENT

Date of Decision : 25-03-1987

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 16(5)

Citation : (1987) 1 AWC 724

Hon'ble Judges : R.S. Dhavan, J

Bench : Single Bench

Advocate : P.K. Jain, for the Appellant;

Final Decision : Dismissed

Judgement

R.S. Dhavan, J.—A revision under U.P. Act No. 13 of 1972 was pending before the Additional District Judge, Meerut, being Revision No. 126 of 1982, S.K. Rolston v. Lucknow Diecesan Trust Association/Diecesan Education Board, Agra.

2. The predecessor, in interest of Petitioners, had an allotment order in reference to the premises in dispute. The allotment order was cancelled on the application of landlord under Sub-clause (5) Section 16 of the Act aforesaid. Against this, a revision was filed before the District Judge by the allottee; he died during the pendency of the revision.

3. The Petitioner contends that the accommodation had been allotted to her husband Mr. S.K. Rolston on 18th January, 1974 and that after about ten months on 16th October, 1974 the landlord by an application u/s 16(5) of the Act aforesaid sought the cancellation of the allotment order. The allotment order was cancelled and set aside on 25th January, 1982, and against this a revision was filed before the II Additional District Judge, Meerut.

4. The revision was fixed for consideration on 13th March, 1987. The Petitioners are the successors of the allottee, being the wife and the son respectively. Upon

the Petitioner No. 1 falling ill, she contends she was admitted in a hospital and thereafter was convalescing. She sought an adjournment for another date in the revision. She submits that the revision was adjourned but the stay order was vacated. The certified copy of the order of the II Additional District Judge, Meerut dated 12th March, 1987 adjourning the revision to 29th April, 1987 but vacating the stay order of 19th March, 1982, has been appended as Annexure 1 to the writ petition. The Petitioner now contends, and rightly, that she apprehends disastrous civil consequences. In such a state of affairs, her possession of the premises may be in jeopardy. The Petitioners contend that they have no remedy to protect themselves, should the landlord initiate proceeding to have them evicted. If that happens, she contends the revision would become a futile exercise.

5. The apprehension of the Petitioners are otherwise well founded. Indeed if an adjournment was being granted by the court below, then the case, thus, ought to have been adjourned leaving the stay order intact. The Supreme Court has in the decision of Mool Chand Yadav v. Raza Buland Sugar Co. Ltd. Rampur 1983 AWC 121 laid down that judicial approach requires that during the pendency of a case the operation of an order which may occasion serious civil consequences must be suspended more so when the case has been admitted.

6. In the matter before this Court the Court thought it fit to grant an adjournment but vacate the stay order, in the facts and circumstances of the present case it would not be appropriate to subject the Petitioners to a complication of facing eviction when the civil revision is itself pending consideration before the II Additional District Judge, Meerut. Thus this Court by writ, order or direction in the nature of certiorari hereby certifies that the discharge of the stay order of 19th March, 1982 by the order dated 12th March, 1987, was not appropriate in view of the Supreme Court decision, *supra*.

7. If the Court of the II Additional District Judge, Meerut comes to the conclusion that the adjournment was sought for a reason which was not bonafide then that Court may even now impose or saddle costs on the two Petitioners in the revision. But, then, the bonafides of the adjournment would need to be examined.

8. The revision may now proceed for consideration on merits on 29th April, 1987 or upon any other date fixed by the court, aforesaid.

9. With this observation this petition has been considered and decided accordingly, and will be consigned to the record. There will be no order on costs. A copy of this order may be supplied to the learned Counsel for the Petitioners within 48 hours.