
(2002) 05 AHC CK 0094
In the Allahabad High Court
Case No : C.M.W.P. No. 15232 of 2002

Smt. Satyawati and Others	Vs	APPELLANT
Prescribed Authority, Etawah and Others		RESPONDENT

Date of Decision : 01-05-2002

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 21(1)

Citation : (2002) 3 AWC 2036 : (2002) 93 RD 551

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : Arvind Kumar Tiwari, for the Appellant; Man Mohandas Agarwal, S.C., for the Respondent

Final Decision : Allowed

Judgement

Anjani Kumar, J.—Heard learned counsel appearing on behalf of the petitioners and the learned standing counsel representing the State-respondents.

2. This is a writ petition filed by petitioners-tenant against whom the prescribed authority has passed the order dated 8.12.2000 directing to proceed with the case ex parte against the petitioners-tenant. Thereafter petitioners filed an application on 15.12.2000 to recall the order dated 8.12.2000 by which the direction was issued to proceed ex parte against the petitioners. This application has been rejected by the trial court on 2.2.2001. The petitioners filed another application to recall the order dated 2.2.2001 and also the order dated 8.12.2000. This application has also been rejected by the impugned order dated 15.3.2002. Learned counsel for the petitioners has submitted that a perusal of the order dated 3.11.2000 of the order sheet, it is clear that the service of notice has been held sufficient on a statement made on behalf of the respondents-landlord, when they filed the application to recall the aforesaid order and denied the same. This application was rejected on an objection being filed by the respondents that the Court has held service of notice sufficient and that is why

has directed to proceed ex parte which, as stated above, was passed on the statement made by the respondents and not on behalf of the petitioners-tenant. Same is the fate of the third application, which has been decided by the present impugned order.

3. By means of the present petition, the petitioners have challenged all the three orders, namely, 8.12.2000, 2.2.2001 and 15.3-2002. Since the basis of the order is statement as recorded in the order sheet dated 3.11.2000 and it is stated that all the respondents have been served, which fact has been denied by the petitioners on the affidavit and the other side has filed objection to satisfy that this statement is not based on the statement of the petitioners themselves. This is further clear by the order dated 3.11.2000. Even otherwise, in the interest of justice, I feel that the matter should be decided on merits because even if the matter is" directed to proceed ex parte against the petitioners-tenant, the petitioners" right to participate in the proceeding cannot be denied. I, therefore, feel that in the interest of justice, it is expedient that the orders dated 8.12.2000, 2.2.2001 and 15.3.2002 be quashed and are hereby quashed. Sri Arvind Kumar Tiwari, learned counsel appearing on behalf of the petitioners-tenant has filed vakalatnama on behalf of all the petitioners (respondents before the courts below). Sri Tiwari has stated that now all the respondents have been served with the notice. The petitioners-tenant here in this writ petition and the respondents before the authority are directed to put in appearance on 16th July, 2002, which is the next date fixed for hearing before the authority and the authority is directed to decide the matter on merits after affording reasonable opportunity to the petitioners of the present petition to contest the application in accordance with law, if they put in appearance on the date fixed i.e., on 16th July, 2002, otherwise, the authority may be at liberty to proceed ex parte.

4. With the aforesaid observations, this writ petition is allowed. The orders dated 8.12.2000, 2.2.2002 and 15.3.2002 (Annexures-9, 11 and 13 to the writ petition) are hereby quashed. The parties are agreed to produce a certified copy of this order before the authority concerned within ten days. The authority is directed to decide the application expeditiously, preferably within a period of six months from the date of production of a certified copy of this order.