
(2003) 09 AHC CK 0163

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 42457 of 2003

Tushar Kumar Shah

APPELLANT

Vs

District Judge, Kanpur Nagar and others

RESPONDENT

Date of Decision : 19-09-2003

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 16, 18

Citation : (2003) 09 AHC CK 0163

Hon'ble Judges : S.P.Mehrotra, J

Final Decision : Dismissed

Judgement

S.P. Mehrotra, J.—This writ petition has been filed by the petitioner under Article 226 of the Constitution of India, praying for quashing the order dated 24th July, 2003 (Annexure 1 to the writ petition) passed by the learned District Judge, Kanpur Nagar in Rent Revision No. 19 of 2003.

2. The dispute relates to a shop situated in Premises No. 25/36, Karachi Khana, Kanpur. The said shop has, hereinafter, been referred to as "the disputed shop".

3. From perusal of the assertions made in the writ petition and annexures thereto, it appears that on an application for allotment moved by the petitioner, a report of the Rent Control Inspector was called for. The Rent Control Inspector submitted his report, copy whereof has been filed as Annexure 3 to the writ petition.

4. It further appears that by the order dated 21/2/2002, deemed vacancy was declared in respect of the disputed shop on the ground that the respondent No. 4 was an unauthorized occupant of the disputed shop.

5. It further appears that by the order dated 2nd January, 2003, the disputed shop was allotted in favour of respondent No. 5. Copy of the said order dated 2nd January, 2003 has been filed as Annexure 4 to the writ petition.

6. Thereupon, it appears, the petitioner filed a revision under Section 18 of the U.P. Act No. 13 of 1972 (in short "the Act"). The said revision was registered as Rent Revision No. 19 of 2003.

7. It further appears that during the pendency of the said Rent Revision No. 19 of 2003, the petitioner filed an application dated 1st May, 2003 for issuance of commission for inspection of the disputed shop and submission of report regarding the person in possession of the disputed shop. Copy of the said application dated 1st May, 2003 has been filed as Annexure 6 to the writ petition.

8. By the order dated 24th July, 2003 (Annexure 1 to the writ petition), the learned District Judge, Kanpur Nagar has rejected the said application for issuance of commission filed by the petitioner. Thereafter, the petitioner has filed the present writ petition seeking the reliefs mentioned above.

9. I have heard Shri Kushal Kant, learned counsel for the petitioner.

10. It is submitted by Shri Kushal Kant, learned counsel for the petitioner that on the facts and circumstances of the case, it was necessary to find out as to who was in the actual occupation of the disputed shop, and, therefore, the commission ought to have been issued on the said application filed on behalf of the petitioner.

11. Having considered the submission made by the learned counsel for the petitioner, I find myself unable to accept the same. cogent and valid reasons have been given by the learned District Judge, Kanpur Nagar in passing the impugned order dated 24th July, 2003 rejecting the said application for issuance of commission filed by the petitioner.

12. It has, interalia, been pointed out by the learned District Judge in passing the impugned order dated 24th July, 2003 that commission cannot be issued for purposes of collecting evidence on behalf of either party, and that there are no sufficient reasons for allowing the application of the petitioner.

13. In my opinion, the learned District Judge has not committed any illegality or perversity in passing the impugned order dated 24th July, 2003.

14. In view of the aforesaid discussion, in my view, this writ petition lacks merit, and the same is liable to be dismissed. The writ petition is accordingly dismissed.