

(2008) 02 SC CK 0088

In the Supreme Court Of India

Case No : Civil Appeal No. 1355 of 2008 (Arising out of SLP (c) No. 3066 of 2007)

Vishwanath Saraogi

APPELLANT

Vs

Ravi Bhatia and Others

RESPONDENT

Date of Decision : 18-02-2008

Acts Referred:

Citation : (2008) 5 ALLMR 1006 : (2008) 6 JT 248 : (2008) 2 SCALE 675 : (2008) 15 SCC 797

Hon'ble Judges : Tarun Chatterjee, J;H. S. Bedi, J

Bench : Division Bench

Advocate : Pramod Swarup, Pareena Swarup, H. Singh and Uma Datta, for the Appellant; Janendra Lal, Jeevesh Nagrath and Yasmin for Janendra Lal and Co., for the Respondent

Final Decision : Dismissed

Judgement

1. Leave granted.

2. This is an appeal from an interlocutory order dated 2nd November 2006 passed by the High Court of Judicature at Allahabad in a pending Civil Misc. Writ Petition No. 28197 of 2005. By the impugned order, the High Court had disposed of an interlocutory application filed by the landlord-respondent praying for increase of rent of the premises in question from Rs. 150/- p.m. to Rs. 6800/- p.m.

3. Having heard the learned Counsel for the parties and after going through the impugned order and other materials on record, we are of the view that the High Court was not justified in passing the impugned order. It is an admitted position that the appellant who is the tenant of the premises in question was successful in the courts below and, therefore, the landlord has filed a writ petition which is pending for decision. In such a situation, the High Court was not correct in passing a direction that in the event the appellant was not paying Rs. 6800/-

p.m., it would be open to the landlord to take police help to evict the appellant from the premises in question. When the orders have been passed in favour of the tenant, it is difficult to accept how a direction could be issued on an interlocutory application permitting the landlord to get possession of the premises in question without the order passed in favour of the tenant-appellant being set aside. In any view of the matter, when the contractual rent of Rs. 150/- per month was being paid by the tenant-appellant, on an interlocutory application that too ft a pending writ application moved by the landlord, the High Court was not justified to raise the rate of rent of Rs. 150/- p.m. to Rs. 6800/- p.m. Further more the amount assessed by the High Court is too excessive in the facts and circumstances of the case in hand.

4. For the reasons aforesaid, the impugned order is set aside and we request the High Court to decide the pending writ petition of the landlord positively within three months from the date of communication of this order to it without granting any unnecessary adjournment to either of the parties. It is needless to say that it will be open to the High Court to direct the tenant-respondent to deposit the rent at the rate last paid.

The appeal is thus allowed to the extent indicated above. There will be no order as to costs.