

**(1981) 05 AHC CK 0015**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ No. 7346 of 1981

Vittiks Pharma

APPELLANT

Vs

Smt. Jai Devi Shukla and Others

RESPONDENT

**Date of Decision :** 03-05-1981

**Acts Referred:**

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

**Citation :** (1982) AWC 477

**Hon'ble Judges :** K.M. Dayal, J

**Bench :** Single Bench

**Advocate :** P.N. Mehrotra, for the Appellant; P.N. Saxena, for the Respondent

## **Judgement**

K.M. Dayal, J.—Heard the learned Counsel for the parties. The present petition has been filed against the orders dated 13-6-1981 and 19-6-1981 passed by the Rent Control and Eviction Officer and the District Judge, respectively. The Petitioners were aggrieved against an ex-parte order of review u/s 16(5) of U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act in favour of O. P. No. 1. They applied for review of the earlier order. Their application was rejected on 15-6-1981. Thereupon they filed a revision against the same before the District Judge, Kanpur. The Petitioners also prayed for stay of their dispossession from the disputed building. On their dispossession not only the revision would have become infructuous but they would have been put to irreparable loss as it was summer vacation. The stay application came up before Shri L. R. Kohli, the Incharge District Judge, Kanpur on 19-6-1981. He entertained some doubt about his authority. He ordered the matter to be put up before the District Judge for orders on 22nd June, 1981. In the meantime the present petition was filed.

2. The stay application filed by the Petitioner was rejected by the District Judge on 22-6-1981, though the revision was kept pending and no final orders were passed on it. That appears to be highly improper. Orders even on stay or interlocutory matters should not be passed in a slip shod manner. The merits and

consequences must be examined. It is apparent that the orders were passed without any application of mind to the controversy. The result was that the Petitioner was dispossessed even before he could avail of the remedy of revision provided under law. The judgment was enforced though its correctness was under examination by the revisional court. After dispossession an application was moved by the Petitioner.

3. The matter came up before another Hon"ble Judge of this Court and the order for putting back the Petitioner into possession of the accommodation was passed on 31-7-1981. A portion of that order is reproduced below:

It is a little surprising that an experienced member of the judicial service like the District Judge, Kanpur should have misinterpreted the order of this Court which authorised him only to pass orders in the revision, that is to say final orders in the revisional application which had been filed before him against the order of the Rent Control and Eviction Officer, and not to modify the effect of the interim order by this Court pending hearing of the writ petition for admission after two weeks. The writ petition having been admitted now, it appears expedient in the interest of justice that the Petitioner should be put back into possession of the accommodation forthwith. The further proceedings in the revision before the District Judge are stayed.

The revision being pending before the court below it will not be expedient for me to enter into the merits of the case. The revision has to be decided by the revisional authority on merits.

4. In the result, the writ petition is allowed. The orders dated 19-6-1981 and 22-6-1981 passed by the Incharge District Judge and the District Judge, Kanpur are both quashed. The revision may be heard and decided by the authorities on merits. In view of the order passed by this Court on the stay application, quoted above, it will be expedient that the revision may be heard by any other competent officer and not by the District Judge, Kanpur himself. The District Judge, Kanpur may transfer the case to any other competent authority. Dispossession of the Petitioner shall remain stayed till the revision is decided by the revisional court on merits. There will be no Order as to costs.