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Darshan Devi (Smt.) and ors. Vs. Mangat

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Court : Allahabad

Decided On : Jan-06-2005

Reported in : 2005(1)ARC292

Judge : Anjani Kumar, J.

Acts : Constitution of India - Article 226; Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 - Sections 18

Appeal No. : Civil Misc. Writ Petition No. 294 of 2005

Appellant : Darshan Devi (Smt.) and ors.

Respondent : Mangat

Advocate for Def. : None

Advocate for Pet/Ap. : P.K. Jain, Adv.

Judgement :

Anjani Kumar, J.

1. Heard Sri P.K. Jain, learned Counsel for the petitioners.

2. This writ petition under Article 226 of the Constitution of India by the petitioner-landlords questions the order dated 24th November, 2003, whereby the Rent Control and Eviction Officer exercising delegated powers of District Magistrate

under the provisions of U.P. Act No. 13 of 1972 (In short 'the Act') declared the accommodation to be vacant and further the order dated 15th December, 2004, whereby the Rent Control and Eviction Officer allowed the parties to adduce evidence and fixed 14th January, 2005 as the next date.

3. Admittedly the order dated 15th December, 2004 is interlocutory order. This Court normally do not interfere with the interlocutory orders in exercise of powers under Article 226 of the Constitution of India. I do not see any specific reason to interfere with the order dated 15th December, 2004. So far as order declaring vacancy dated 24th November, 2003 is concerned, it is stated by learned Counsel for the petitioners that the order dated 24th November, 2003 has not been challenged by means of revision under Section 18 of the Act in view of the decision of Supreme Court in Ganpat Roy v. Additional District Magistrate, 1985 (2) ARC 73, but a revision under Section 18 of the Act has been filed by the petitioners-landlords against the order rejecting their release application and further against the order of allotment.

4. In view of this fact since the revision is already pending against the order of allotment and order of rejecting release application of the landlord-petitioners, I do not find it a fit case for interference in exercise of powers under Article 226 of the Constitution of India at this stage, so far as order dated 24th November, 2004 is concerned. Further it will be open to the petitioners to raise their objections regarding validity of the order declaring the vacancy and the revisional authority is directed to decide the question of declaring the vacancy also.

5. With the aforesaid observations, this writ petition is disposed of.

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