

Ashok Kumar Singh Vs. Additional District Judge and ors.

Ashok Kumar Singh Vs. Additional District Judge and ors.

SooperKanoon Citation : sooperkanoon.com/472764

Court : Allahabad

Decided On : Feb-01-2005

Reported in : 2005(1)ARC616; 2005(3)AWC2114

Judge : Anjani Kumar, J.

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

Appeal No. : Civil Misc. Writ Petition No. 4566 of 2005

Appellant : Ashok Kumar Singh

Respondent : Additional District Judge and ors.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : P.R. Maurya, Adv.

Disposition : Petition dismissed

Judgement :

Anjani Kumar, J.

1. Heard learned Counsel appearing on behalf of the parties.

2. The petitioner aggrieved by an order passed by the appellate authority under the provisions of the U.P. Act No. 13 of 1972, (In short 'the Act'), approached this Court by means of present writ petition under Article 226 of the [Constitution of India](#), whereby the application which was filed by the petitioner during the pendency of the appeal. This appeal was filed in the year 1999. The application was filed by the petitioner for amendment in the written statement on the ground that certain subsequent facts are necessary to be brought on record by way of amendment. This application is rejected by the appellate authority. This application filed by the petitioner has been objected to by the landlord on the ground that the application is ma/a fide and any subsequent facts can always be brought by means of an affidavit as evidence even at the appellate stage and in case the amendment is allowed, it will delay in the disposal of the appeal, which is pending since 1999. The appellate authority after considering the respective arguments advanced on behalf of the parties rejected the application filed by the petitioner and directed that the petitioner if he wants can file evidence by way of an affidavit with the permission of the appellate authority. The appellate authority further held that it is not necessary to allow the amendment, nor the amendment sought are necessary for deciding the controversy between the parties.

3. Learned Counsel appearing on behalf of the petitioner relied upon decisions of Uttaranchal High Court reported in 2002 (2) AWC 1738 (UHC) : 2001 (2) ARC 564 Radheyshaym v. Illrd Additional District Judge, Haridwar and Ors. and 2002 (2) AWC 1739 (UHC) : 2002 (1) ARC 362 Harish Kumar Sahni and Ors. v. State of U.P. and Ors.. The decisions lay down that the amendment of the plaint if do not change the nature of the suit, can be allowed at any stage. There is no dispute so far as the proposition of law is concerned, but here since amendment sought to be made is in fact the evidence regarding subsequent facts, which the petitioner can bring on record by means of an affidavit or evidence with the permission of the Court. It is not necessary to allow the amendment application.

4. In view of what has been stated above, I do not see any error in the order impugned in the present writ petition, much less error apparent on the face of record, which may warrant any interference by this Court in exercise of power under Article 226 of the [Constitution of India](#). This writ petition, therefore, has no

force and is accordingly dismissed. However, the parties shall bear their own costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com