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Mahendra Kumar Vs. Naresh Mehra

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Court : Allahabad

Decided On : Jan-07-2004

Reported in : 2005(1)ARC267

Judge : S.P. Mehrotra, J.

Acts : Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 - Sections 21(1) and 22; Constitution of India - Article 226

Appeal No. : Civil Misc. Writ Petition No. 247 of 2004

Appellant : Mahendra Kumar

Respondent : Naresh Mehra

Advocate for Def. : None

Advocate for Pet/Ap. : Vivek Chaudhary, Adv.

Disposition : Petition dismissed

Judgement :

S.P. Mehrotra, J.

1. The present Writ Petition has been filed by the petitioner under Article 226 of the Constitution of India, interalia, praying for quashing the order dated 18.11.2003 (Annexure No. 5 to the Writ Petition) passed by the Prescribed Authority/Judge,

Small Cause Court, Meerut allowing the amendment application (Paper No. 37Ga) filed in P.A. Case No. 7 of 2001.

2. The dispute relates to an accommodation, the details whereof are given in the Release Application referred to hereinafter. The said accommodation has hereinafter been referred to as 'the disputed accommodation.'

3. From the averments made in the Writ Petition and the Annexures thereto, it appears that the respondent filed a release application under Section 21 (1) (a) of the U.P. Act No. XIII of 1972 (in short 'the Act') against the petitioner for the release of the disputed accommodation. The said Release Application was registered as P.A. Case No. 7 of 2001. Copy of the said Release Application has been filed as Annexure No. 1 to the Writ Petition.

4. During the pendency of the said P.A. Case No. 7 of 2001, the respondent filed an application dated 25.7.2003 (Paper No. 37 Ga), interalia, praying for being permitted to make amendment in the said Release Application. Copy of the said application dated 25.7.2003 and its supporting affidavit has been filed as Annexure No. 3 to the Writ Petition.

5. It further appears that against the said amendment application, the petitioner filed Objections, copy whereof has been filed as Annexure No. 4 to the Writ Petition.

6. By the impugned order dated 18.11.2003, the said amendment application (Paper No. 37 Ga) filed on behalf of the respondent was allowed on payment of cost of Rs. 250/-.

7. Thereafter, the petitioner has filed the present Writ Petition seeking the reliefs mentioned above.

8. I have heard Sri Vivek Chaudhary, learned Counsel for the petitioner, and perused the record.

9. From the above narration of the facts, it is evident that the order dated 18.11.2003 impugned in the present Writ Petition has been passed on the said

amendment application (Paper No. 37 Ga) filed on behalf of the respondent during the pendency of the said P.A. Case No. 7 of 2001. The said order dated 18.11.2003 is evidently an interlocutory order. It will be open to the petitioner to challenge the said order dated 18.11.2003, in case, the final decision in the said P.A. Case No. 7 of 2001 goes against the petitioner, and the petitioner challenges such final decision in an Appeal under Section 22 of the Act.

10. In the circumstances, without going into the merits of the impugned order dated 18.11.2003, I am of the opinion that no interference is called for with the said order at this stage.

11. In view of the aforesaid discussion, the Writ Petition is dismissed subject to the observations made above.

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