

Court No. - 4

Case :- MATTERS UNDER ARTICLE 227 No. - 7895 of 2022

Petitioner :- Fajaluddeen

Respondent :- Qayyamuiddin And 4 Others

Counsel for Petitioner :- Pratik Chandra

Counsel for Respondent :- Manoj Kumar Kushwaha,M.P.
Srivastava

Hon'ble Prakash Padia,J.

1. Heard Shri Pratik Chandra, learned counsel for the petitioner and Mr. M. P. Srivastava, learned counsel for the contesting respondents.
2. The petitioner has preferred present petition against the order dated 02.08.2022 passed by Civil Judge (S.D.), Orai at Jalaun in P.A. Case No.4/2016 (Qayyamuiddin Vs. Fajaluddin).
3. It is stated in paragraph 27 of the petition that in the aforesaid case an application 68 (Ga) dated 05.07.2022 was filed by the petitioner to cross examine P.W.-1, P.W.-2 and P.W.-3 in respect of the fact that the shop namely Bharat Chashma Wale is being run by respondent no.2 at the ground floor and there is another vacant shop at the first floor wherein the respondent no.1 can start a new business for his sons as prayed by him in application under Section 21 (1) (A) of Act of 13 of 1972. The aforesaid application was rejected by the court below hence present petition.
4. Today when the matter is taken up it is argued by Shri M. P. Srivastava, learned counsel for the contesting respondents that he has no objection in case P.W.-1, P.W.-2 and P.W.-3 be examined by the court below. It is further argued by him that he does not want to file counter affidavit on behalf of respondents and specially in

view of the fact that the matter is pending before the Prescribed Authority since 10 years hence the order impugned be set aside and the court below be directed to pass appropriate orders in the matter in so far as examination of witnesses are concerned within time bound period and the entire proceedings of the case be also decided expeditiously.

5. In this regard it is important to note that under Sub Rule (3) of Rule 15 of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Rules, 1972, every application referred to in sub-rule (1) shall, as far as possible, be decided within two months from the date of its presentation. Rule 15 of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Rules, 1972 is reproduced hereinbelow:-

"15. Application for release of buildings under occupation of tenant [Section 21 (1)].?"

(1) Every application for release under Section 21 (1) shall specify the ground or grounds on which the tenant is sought to be evicted.

(2) The application or its reply shall be signed and verified in the manner prescribed under Rules 14 and 15 of Order VI of the First Schedule to the Code of Civil Procedure, 1908 (Act No. V of 1908). If there are more than one landlords, the application shall be signed by all the co-landlords.

(3) Every application referred to in sub-rule (1) shall, as far as possible, be decided within two months from the date of its presentation."

6. This prayer has not been opposed by Shri Prateek Chandra, learned counsel for the petitioner.

7. From perusal of the plaint, which is appended as annexure-1 to the petition it is clear that the case in question was filed on 16.12.2016 but till date no final decision has been taken in the matter.

8. In the facts and circumstances of the case and also in the interest of justice, in view of the averments made by the counsel for the respondents as stated above, the order dated 02.08.2022 passed by

Civil Judge (S.D.), Orai at Jalaun is liable to be set aside and the same is hereby set aside.

9. The court below before whom proceedings of Case No.4/2016 is pending is directed to examine P.W.-1, P.W.-2 and P.W.-3 most expeditiously and preferably within a period of one month from the next date fixed in the matter. Since the matter is pending consideration from last more than 10 years the court below is also directed to decide the entire matter most expeditiously and positively within a period of six months from today.

10. Accordingly present petition is allowed.

11. The Registrar (Compliance) is directed to communicate this order to the Civil Judge (S.D.) Orai at Jalaun or before whom matter is pending consideration through District Judge within a week.

Order on Misc. Stay Application No.01 of 2022

In view of the order passed on the petition no order is required to be passed hence same is rejected.

Order Date :- 20.11.2023

Pramod Tripathi