

Court No. - 4

Case :- MATTERS UNDER ARTICLE 227 No. - 9401 of 2023

Petitioner :- Babloo Paswan

Respondent :- Puran Chandra

Counsel for Petitioner :- Pradip Kumar Srivastava

Counsel for Respondent :- Abhinava Krishna Srivastava

Hon'ble Prakash Padia,J.

1. Heard Shri Pradip Kumar Srivastava, learned counsel for the petitioner and Shri Abhinava Krishna Srivastava, learned counsel was directed to put up his appearance on behalf of Kanpur Development Authority, Kanpur.

2. The case set up by the petitioner in the present petition is that giving the premises constructed on the plot allotted by the Kanpur Development Authority, Kanpur in favour of the wife of petitioner namely Sunita under 'Sarvjan Hitay Garib Awas(Slum Area) Malikana Haq Yojana' by the allotment letter dated 05.03.2010, hence there is no relationship of the landlord and tenant between the petitioner and respondent namely Puran Chandra.

3. On the basis of instructions, Shri Abhinava Krishna Srivastava, learned counsel appearing on behalf of Kanpur Development Authority, Kanpur, it is stated that the patta was allotted in favour of the wife of petitioner in respect of the land situated at plot no. B-25/09 Mohalla, Kanpur Nagar District Kanpur Nagar vide Patta dated 05.03.2010. Insofar as the premises in dispute as stated in S.C.C. Suit filed by the landlord is 83/141 Block- S Juhi Jalpanagar Kanpur Nagar.

4. In this view of the matter it is argued that the petitioner will not get any benefit insofar as the allotment of patta granted in favour of his wife. It is further argued that nothing has been stated in the entire petition nor any pleadings has been made before the court below that after the allotment of patta in the year 2010 when the constructions were made on the aforesaid plot. Hence it is argued that petitioner is not get any benefit from the documents of patta, copy of which is appended as Annexure-1 to the present petition.

5. It appears from perusal of the record that the petitioner has given a notice for his premises situated at Premises No. 83/141

regarding non payment of arrears of rent w.e.f. 01.01.2008 till 31.05.2010 @ Rs.1200/- per month, amount to Rs.38,006.45/- and taxes of water and sewer @ 18%. Inspite of the same, when the rent was not paid, the suit in question was filed.

6. After considering the entire aspect of the matter, the suit filed by the landlady was decreed by the Judge Small Causes, Court No.1, Kanpur Nagar in SCC Suit No. 88 of 2010 vide judgment and order dated 30.10.2021.

7. Aggrieved against the aforesaid, petitioner has filed SCC Revision before the District Judge, Kanpur Nagar, the same was registered as SCC Revision No. 2 of 2022 (Babloo Paswan vs. Puran Chand). It is stated that without considering the facts and evidence, the Additional District Judge, Court No.8, Kanpur Nagar rejected the revision of petitioner vide judgment and order dated 21.07.2023, hence the present petition.

8. Heard counsel for the petitioner and perused the record.

9. After hearing counsel for the parties and after perusal of the record, the Court is of the prima facie opinion that the order passed by both the courts below are absolutely perfect and valid order and does not call for any interference by this Court.

10. At this point of time, a prayer has been made by the counsel for the petitioner to grant 12 months time to vacate the premises.

11. This prayer has not been opposed by the counsel appearing on behalf of Kanpur Development Authority, Kanpur.

12. In this view of the matter and without interfering with the orders passed by the courts below which are under challenged in the present petition, the present petition is **disposed of**, directing the petitioner to vacate the premises within one year i.e., on or before 31.10.2024 with the following conditions:-

(i) Defendant-petitioner is directed to file an affidavit within one month from today before **Judge, Small Cause** that he will vacate the house in question within the time given by the Court;

(ii) Defendant-petitioner is directed to deposit all decretal amount within a month from today as per the judgment and order dated 30.10.2021 before **the Judge Small Cause, Court No.1, Kanpur Nagar**. In case, any amount is already deposited, same shall be adjusted against the decretal amount;

(iii) Defendant-petitioner is also directed to pay rent of house in question @ Rs. 1200 per month along-with water tax due for a period 01.11.2021 till 31.10.2023 within a period of one month from today before **Judge, Small Cause, Court No.1, Kanpur Nagar**;

(iv) Insofar as the future rent is concerned i.e., w.e.f. 30.11.2023 till the time he will vacate the premises namely 31.10.2024, the rent will be deposited before the **Judge Small Cause, Court No.1, Kanpur Nagar** @ Rs.12,00/- per month on or before 15th day of every month starting from November 15th, 2023 till the vacation of house in terms of first three conditions;

(v) It is made clear that the amount so deposited will be released in favour of the plaintiff-respondent (landlord) without furnishing any security.

(vi) In case of failure of fulfillment of any conditions so imposed by the Court, this order would lost the effect and plaintiffs-respondents are at liberty to proceed against the defendant-petitioner in accordance with law.

12. With the aforesaid observations, petition is **disposed of**.

13. It is made clear that no liberty is given to the petitioner to file fresh petition for the very same cause of action.

Order Date :- 2.11.2023

Swati