

Court No. - 4

Case :- WRIT - A No. - 16446 of 2023

Petitioner :- Narendra Kumar

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Jitendra Kumar,Prasoon Tomar

Counsel for Respondent :- C.S.C.,Krishna Mohan Garg

Hon'ble Prakash Padia,J.

1. Heard Shri Jitendra Kumar, learned counsel for the petitioner and Shri Krishna Mohan Garg, learned counsel appearing on behalf of respondent no.3.

2. The present petition has been filed inter-alia with the prayer to quash the impugned order undated passed in Case No. 1386 of 2022 (Computer Case No. D202213160001386) (Vivek Kumar vs. Narendra Kumar) by Prescribed Authority/ ADM (F/R) Bijnor.

3. By the aforesaid order, the application filed by the respondent no.3 dated 28.10.2022 was allowed.

4. Facts in brief as contained in the present writ petition are that the respondent no.3 filed Application u/s 21(2) and 23 of U.P. Regulation of Urban Premises Tenancy Act, 2021 for eviction, arrears of rent etc. against the petitioner. The case is registered as Case No. 1386 of 2022 (Computer Case No. D202213160001386), Vivek Kumar vs. Narendra Kumar, before Prescribed Authority-respondent no.2. The Copy of the application filed by respondent no.3 is marked as Annexure-2 to this writ petition. In the aforesaid case a written statement/reply has been filed by the petitioner on 29.09.2022. It is further stated that landlord- respondent no.3 filed an application dated 28.10.2022 under Rule 7 sub rule (5) of U.P. Regulation of Urban Premises Tenancy Rules, 2021 with the prayer to not consider the reply of the petitioner. Thereafter the petitioner-tenant filed objections dated 04.11.2022 to the landlord application under Rule 7(5). Petitioner specifically stated in the

objection that he filed the tender for deposit the rent in the court on the first dated after institution of the case as such the tenant is not defaulter and further the bank account of the rent authority for the deposit of such rents is not opened in any bank as prescribed under the Act and rules therefore the amount is neither deposited nor tender is being accepted in absence of bank account. The petitioner- tenant is not defaulter and the application dated 28.10.2022 is liable to be rejected.

5. The petitioner again move application dated 10.03.2023 for deposit of rent and other charges along-with cheque of Rs. 28646/- in the case to the Prescribed Authority. However the Prescribed Authority did not pass any order on the said application yet. Thereafter the account of the rent authority for deposit of the rent under the Act and rules has not been opened in any bank yet and this is one reason for not accepting the rent sought to be deposited by the tenant through various applications mention above.

6. It is argued that without taking any decision on the petitioner's application for depositing the rent, the impugned undated order has been passed by the Prescribed Authority. It is further argued that impugned order has been passed without hearing of the parties and petitioner is not aware that on which date the impugned order was passed. It is further stated that the petitioner has applied for certified copy of the order sheet on 21.08.2023 but the copy of the order sheet has not been issued to the petitioner from the office of respondent no.3 till date.

7. Heard counsel for the parties and perused the record.

8. It reveals from perusal of the order impugned that though certain objections were filed in response to the application dated 28.10.2022 submitted by the respondent no.3- landlord but without considering the same, the application submitted by the respondent no.3-landlord was allowed. It further reveals from perusal of the order, that the impugned order is liable to be set aside and order impugned is undated order.

9. In this view of the matter, the order impugned undated passed in Case No. 1386 of 2022 (Computer Case No. D202213160001386) (Vivek Kumar vs. Narendra Kumar) is liable to be set aside and is hereby set aside. The court below before whom the proceedings is pending is directed to pass afresh order strictly in accordance with law after hearing counsel for the parties, expeditiously and preferably within a period of six weeks from the date of presentation of certified copy of this order.

10. In view of the aforesaid, the present writ petition is **allowed**.

Order Date :- 17.10.2023

Swati