

Court No. - 4

Case :- MATTERS UNDER ARTICLE 227 No. - 10488 of 2023

Petitioner :- Lalji Dwivedi

Respondent :- Sharad Kumar

Counsel for Petitioner :- Shailendra Kumar Ojha, Shyam Surat Shukla

Counsel for Respondent :- Bimla Prasad

Hon'ble Prakash Padia, J.

1. Heard Shri Shyam Surat Shukla, learned counsel for the petitioner and Mr. Bimla Prasad, learned counsel for the respondent.
2. The present petition has been filed with the prayer to call for the records of the case and set aside the impugned judgment and order dated 10.12.2021 passed by Judge, Small Cause Court in J.S.C.C. Suit No.226 of 2014 and judgement and order dated 05.09.2023 passed by Additional District Judge, Court No.8, Kanpur Nagar in Revision No.5 of 2022 (Lalji Dwivedi Vs. Sharad Kumar) (Annexures No.9 & 11 to the petition).
3. It is argued by counsel for the petitioner that the orders passed by the courts below are absolutely illegal and liable to be set aside.
4. On the other hand it is argued by Mr. Bimla Prasad, learned counsel for the respondent (landlord) that the cogent findings were recorded by both the courts below hence present petition is liable to be dismissed.
5. After some arguments a prayer has been made by the counsel for the petitioner that some time may be granted to the petitioner to vacate the premises.

6. This prayer has not been opposed by the counsel for the respondent (landlord).

7. In this view of the matter without interfering with the orders passed by the courts below, which are under challenged in the present petition, the petition is disposed of directing the revisionist to file an affidavit in this regard within three weeks from today before the prescribed authority that the revisionist will vacate the premises on or before 15.04.2024 and also make payment of rent regularly by 20th of each month starting from October, 2023.

8. In so far as arrears are concerned, the same may be deposited within four weeks from today in the court below. In case, any amount is already deposited, same shall be adjusted against the decretal amount.

9. The court below will release all the deposits in favour of the landlord without asking for any security.

10. However, it is clarified that in the event of default in compliance of any directions issued hereinabove the interim protection granted under this order shall cease to operate and the landlord-respondent will be at liberty to get the decree executed in accordance with law.

Order Date :- 12.10.2023

Pramod Tripathi