

Reserved on 12.12.2023

Delivered on 16.12.2023

Court No. - 8

Case :- WRIT - C No. - 7213 of 2023

Petitioner :- Ashok Jaiswal And 3 Others

Respondent :- State Of U.P. Thru. Prin. Secy.
Home Lko. And 4 Others

Counsel for Petitioner :- Satya Prakash

Counsel for Respondent :- C.S.C., In Person

Hon'ble Pankaj Bhatia, J.

1. Heard learned counsel for the parties and perused the material available on record.

2. The present writ petition challenges an order dated 25.07.2023 whereby the District Magistrate, acting as an Appellate Authority under the provisions of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the 'Senior Citizens Act'), whereby directions have been issued for evicting the premises under occupation of the petitioner. The said appeal was preferred against an order dated 22.02.2023, whereby the authority under the Senior Citizens Act had issued directions restraining the petitioner from causing any mental harassment to the applicant, further directions

were issued not to interfere in the possession of the applicant.

3. The facts in brief that the respondent no. 5, initiated proceedings for eviction from the property against the petitioner. It is relevant to mention that litigation in between the parties is going on, however as the respondent no. 5 had complained harassment at the instance of the petitioner, proceedings were initiated and the same resulted in an order dated 22.02.2023 restraining the petitioners from causing any mental or physical harassment to the respondent no. 5 and not to create any obstructions in enjoyment of a part of the property being House No. B-23, Sector-A, Mahanagar, Lucknow. The respondent no. 5 aggrieved of non-grant of the entire relief as claimed by him preferred an appeal insisting that an order of eviction be passed and accepting the appeal, directions were issued for vacating the premises in question.

4. Apart from the other submissions made, the main submission of the learned counsel for the petitioners is that in terms of the powers

contained under the Senior Citizens Act, no authority is empowered to direct eviction from the premises and the said issue has been dealt with and decided by this Court vide order dated 31.05.2022 in the case of Abhishek Tiwari and another Versus State of Uttar Pradesh and others in Writ C No. 30835 of 2021.

5. The respondent no. 5, who is appeared in person, argues that he has been harassed and has handed over a short note, which records that an order was passed in the present case staying the impugned order and the note also indicates a news item calling upon the lawyers to help in expediting the disposal of cases. Although, the submission of the respondent no. 5 are not on merits, however, I propose to decide the writ petition on the first submission raised by the counsel for the petitioner with regard to the jurisdiction of the authorities under the Senior Citizens Act to direct for eviction. The said issue has been conclusively decided by this Court in the case of Abhishek Tiwari and other Versus State of U.P. (Supra), as such, following the said directions the appellate order cannot be sustained and is

quashed, however, the directions given in Case No. 83 of 2022 vide order 22.02.2023 by the Additional District Magistrate, Sadar, Lucknow as contained in Annexure No. 8 shall continue to bind the parties. The order dated 25.07.2023 is quashed.

6. The writ petition is ***disposed of*** in terms of the aforesaid.

Order Date :- 16.12.2023
Arun