

Court No. - 19

Case :- MATTERS UNDER ARTICLE 227 No. - 5373 of 2023

Petitioner :- Ramji Das Sahu

Respondent :- Distt. Judge Sitapur And Another

Counsel for Petitioner :- Gaurav Tripathi, Sridhar Awasthi

Hon'ble Jaspreet Singh, J.

Heard Shri Sridhar Awasthi, learned counsel for the petitioner.

By means of the instant petition preferred under Article 227 of the Constitution of India, the petitioner assails the order dated 03.08.2023 passed by the District Judge, Sitapur in Appeal No.24/2023 preferred under Section 22 of the U.P. Act No.13 of 1972 whereby an application moved by the petitioner bearing Paper No.GA-21 seeking time to bring on record additional evidence has been rejected.

The submission of the learned counsel for the petitioner is that initially the release application was moved by Satish Chandra Agarwal, the father of the respondent No.2. The application under Section 21 of the U.P. Act No.13 of 1972 was allowed by the Prescribed Authority on 06.01.2023. The petitioner being aggrieved preferred Rent Appeal No.24/2023 before the District Judge, Sitapur. During pendency of the said appeal, the petitioner moved an application for amendment to introduce another ground to the effect that the pleadings which have been delivered by the respondent No.2 showing his need as bonafide stood falsified for the reason that the respondent No.2 was already engaged as a clerk in an institution and as such he was not in need of the premises which is under the tenancy of the petitioner. The said application for amendment came to be allowed by the lower Appellate Court on 25.05.2023 and thereafter time was granted to the petitioner to carry out the necessary amendments. In response, the private-respondent No.2 has also filed his reply, however, later by means of the order dated 21.07.2023, opportunity of the petitioner to file rejoinder to the reply filed by the private-respondent No.2 was also closed. Thereafter an application bearing Paper No.Ga-21 was filed by the petitioner seeking time to bring on record certain additional evidence. This application was rejected by the lower Appellate Court noticing that since the application for amendment was allowed in the month of May, 2023, ample opportunity was granted to the petitioner to file appropriate evidence if the petitioner had to, however, the same was not

brought on record even while moving the application bearing Paper No.Ga-21 though time has been sought by the petitioner but no evidence nor the details of the evidence, the petitioner wished to bring on record was disclosed. It is in the aforesaid backdrop, the lower appellate Court found that the petitioner was delaying the proceedings and thus with the aforesaid, the application came to be rejected.

The submission of the learned counsel for the petitioner is that once the application for amendment was allowed, the petitioner was required to file additional evidence to bring on record the fact that the respondent No.2 was already engaged as a clerk in another institution and was not in need of the premise and by failing to grant an opportunity, substantial injustice has been done.

The Court has heard learned counsel for the petitioner and also perused the material on record.

Apparently, it is not disputed that the application for amendment was allowed on 25.05.2023. Thereafter though the amendment was incorporated, but there has been no effort made by the petitioner to bring on record the proposed evidence that he wished to file. Merely an application bearing Paper Ga-21 was moved seeking time to file the additional evidence but what was the evidence that the petitioner wanted to bring on record was neither placed before the lower appellate Court nor before this Court nor it was stated in the application.

The record further indicates that even earlier the petitioner had filed a petition bearing No.4479/2023 (U/A 227) which was permitted to be withdrawn with liberty to file fresh with proper and relevant documents, however, despite having been granted liberty and it was availed by the petitioner, yet the said documents have not been brought on record.

In view of the aforesaid, this Court does not find that there is any error committed by the lower Appellate Court in rejecting the application. Since, the application was vague and there was no effort made by the petitioner to bring on record the proposed evidence that he wished to introduce nor it could be placed before this Court so also the impugned order being interlocutory in nature. In view of the aforesaid, this Court does not find that it is a fit case to exercise the powers under Article 227 of the Constitution of India, Accordingly, the petition being devoid of merit is **dismissed**.

Order Date :- 26.10.2023

Rakesh/-