



2025:AHC:145335

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 1612 of 2025

Kamar Ahmad

.....Petitioner(s)

Versus

Sri Fareed Ahmad And Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Chaudhary Subhash Kumar
Counsel for Respondent(s)	:	Sanjay Agrawal

Court No. - 37

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Sri Chaudhary Subhash Kumar, learned counsel for petitioner and Sri Sanjay Agrawal, learned counsel for respondents.

2. Brief facts of the case are that proceeding under Section 21 (1) (a) of Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (herein after to referred as the U.P. Act No. 13 of 1972) was initiated at the instance of respondents/landlords, which was registered as P.A. Case No. 3 of 2014. In the aforementioned release proceeding issue no. 1 was framed regarding relationship of landlord and tenant along with other issues. The Prescribed Authority rejected the release application vide order dated 24.08.2015. Against the order of Prescribed authority dated 24.08.2015 petitioner filed Rent Appeal before the District Judge, Jalaun which was registered as Rent Appeal No. 10 of 2015. The aforementioned appeal was heard by District Judge, Jalaun at Orai and vide judgment dated 02.02.2018, the Rent Appeal was allowed in part setting aside the order dated 24.08.2015 passed by the Prescribed Authority on the issue no. 1 and maintained the order on other issues. Respondent/landlord filed a fresh release application before prescribed authority, which was registered as P.A. Case No. 2 of 2016. In the aforementioned P.A. Case No. 2 of 2016 a written statement was filed on behalf of the petitioner denying the relationship of landlord and tenant along with other grounds. The aforementioned P.A. Case No. 2 of 2016 was heard finally by Prescribed Authority and vide order

dated 27.02.2019 the release application was allowed in favour of landlord for release of the shop in question. Against the order of Prescribed Authority dated 27.02.2019 petitioner/tenant filed an appeal under Section 22 of U.P. Act No. 13 of 1972 before District Judge, which was registered as Rent Appeal No. 1 of 2019. During the pendency of aforementioned Rent Appeal, an Amendment application was filed to amend the memo of appeal as well as written statement stating that petitioner has become owner of disputed shop by way of sale deed executed in his favour by the real owner of the shop in question. The two applications filed on behalf of the appellant were allowed and amendment was incorporated in memo of appeal as well as written statement. Petitioner/tenant filed another amendment application 31c2 dated 16.12.2024 as well as application 34c2 dated 04.01.2025 to cross examine the witness of landlord. Against the amendment application dated 16.12.2024 as well as application for cross examination objection dated 19.12.2024 /04.01.2025 were filed on behalf of respondents/landlords stating that amendment application should be rejected as tenant is only interested to linger on the proceeding by one way or other. The appellate Court vide order dated 02.01.2025 rejected the amendment application 31c2 and vide order dated 13.01.2025 rejected the application 34c2 for cross-examination. Hence, this petition for following reliefs:-

"i. to call for record of lower Court and set aside impugned order (Annexure No. 1) dated 02.01.2025 and Annexure No. 2 dated 13.01.2025 of Rent Appeal No. 01/2019 Kamal Ahmad Vs. Farid Ahmad and other passed by ADJ-I District Jalaun at Orai and consequently order by passed.

ii. and/or pass other suitable order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case."

3. Learned counsel for petitioner submitted that appellate Court has illegally rejected the amendment application 31c2 as well as application 34c2 for cross-examination in appeal. He further submitted that amendment prayed by the petitioner/tenant is in the interest of justice, as such the amendment cannot be refused on the ground that

amendment has been prayed at appellate stage to linger on the proceeding of appeal. He next submitted that first amendment application filed by the petitioner/tenant was allowed, as such the second amendment cannot be refused by the appellate Court on misconceived ground. He submitted that impugned orders should be set aside and applications 31c2 for amendment as well as application 34c2 for cross-examination filed on behalf of petitioner/tenant in rent appeal should be allowed.

4. On the other hand, learned counsel for respondents/landlords submitted that petitioner/tenant is only interested to linger on the proceeding by moving repeated applications in appeal. He further submitted that earlier amendment application was allowed by the appellate Court, as such further amendment application as well as application for cross-examination of the witnesses is total abuse of process of law. He next submitted that Rent Appeal is pending since 2019, but petitioner/tenant is filing repeated applications some time amendment, some time transfer application, some time applications for cross-examination of witnesses at the appellate stage, which cannot be allowed. He submitted that petition should be dismissed and a direction be issued to the appellate Court to decide the rent appeal, expeditiously.

5. I have considered the arguments advanced by the learned counsel for the parties and perused the record.

6. There is no dispute about the fact that proceeding under Section 21(1)(a) of U.P. Act No. 13 of 1972 initiated by respondents/landlords has been decided by Prescribed Authority vide order dated 27.02.2019 releasing the shop in question in favour of the landlord. There is also no dispute about the fact that Rent Appeal No. 1 of 2019 filed by the petitioner/tenant is pending before appellate Court. There is no dispute about the fact that earlier amendment application filed by the petitioner/tenant was allowed and amendment has been incorporated accordingly. There is also no dispute about the fact that further amendment application (Paper No. 31c2) and application 34c2 filed for cross examination of the witnesses of the landlord at appellate stage has been rejected under the impugned order dated 02.01.2025 and

13.01.2025.

7. In order to appreciate the controversy involved in the matter, perusal of the order dated 02.01.2025 rejecting the amendment application will be relevant which is as under:-

न्यायालय-अपर जिला एवं सत्र न्यायाधीश, कक्ष सं० 1, जालौन स्थान उरई

रेन्ट अपील सं०-01/2019

कमर अहमद

बनाम

फरीद अहमद आदि।

J.O.Code No.-UP-6100

दिनांक: 02.01.2025

पत्रावली के अवलोकन से विदित होता है कि प्रार्थी / अपीलार्थी की ओर से उक्त संशोधन प्रार्थनापत्र अपील के स्तर पर प्रतिवाद पत्र की धारा 21 लगायत 26 को कलम जद किये जाने के सम्बंध में दिया गया है। प्रस्तुत प्रकरण में प्रार्थी / अपीलार्थी की ओर से पूर्व में भी संशोधन प्रार्थनापत्र प्रस्तुत करके संशोधन कराया गया है, अपील के नियमों में भी संशोधन दे चुका है। उक्त रेन्ट अपील वर्ष 2019 से विचाराधीन है और अपीलार्थी उक्त अपील को विलम्बित करने के उद्देश्य से बहस को टाल रहा है, जिससे ऐसा प्रतीत होता है कि अपीलार्थी जानबूझकर अपील की कार्यवाही को विलम्बित करना चाहता है। अतः मामले के तथ्य एवं परिस्थितियों को दृष्टिगत रखते हुये प्रार्थनापत्र 31ग2 निरस्त होने योग्य है।

आदेश

प्रार्थी/अपीलार्थी की ओर से प्रस्तुत संशोधन प्रार्थनापत्र 31ग2 अन्तर्गत आदेश 6 नियम 17 व धारा 151 सी०पी०सी० निरस्त किया जाता है। पत्रावली वास्ते बहस दिनांक 04.01.2025 को पेश हो।

दिनांक: 02.01.2025

2.1.2025

अपर जिला एवं सत्र न्यायाधीश,

कक्ष सं० 1, जालौन स्थान उरई।

8. The perusal of the order dated 02.01.2025 rejecting the amendment application fully demonstrates that by earlier order of the appellate Court, the earlier amendment application filed on behalf of petitioner/tenant has already been allowed and amendment has been incorporated in appeal as well as written statement but

the subsequent amendment application has been filed in order to linger on the proceeding. The impugned order dated 13.01.2025 has also been rightly passed by the appellate Court refusing the prayer for cross-examination of the witnesses of the landlord at the appellate stage.

9. In the aforementioned Appeal No. 1 of 2019 under Section 22 of U.P. Act No. 13 of 1972 the filing of repeated amendment application as well as application for cross-examination of the witnesses of landlord at appellate stage is total abuse of the process of law. The appellate Court has rightly rejected the applications filed by tenant under the impugned orders.

10. Considering the entire facts and circumstances of the case, no interference is required against the impugned orders passed by appellate Court.

11. The instant petition is dismissed accordingly. The appellate Court is directed to decide the Rent Appeal No. 1 of 2019 on merit in accordance with law, after affording proper opportunity of hearing to both the parties, expeditiously preferably within a period of **three months** from the date of production of a certified copy of this order.

(Chandra Kumar Rai,J.)

August 22, 2025
Neetu