



2025:AHC:170859

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 6062 of 2023

Heeralal (Deceased) And 2 Others

.....Petitioner(s)

Versus

Rajendra Prasad (Deceased) And 7 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Anil Kumar Bajpai, Jitendra Kumar, Prakash Chandra Dwivedi, Rajeev Kumar Singh, Tanmay Agrawal
Counsel for Respondent(s)	: Anadi Krishna Narayana, Ashish Agrawal, Neeharika Sinha Narayana

Court No: - 37

Reserved On:- 26.8.2025

Delivered On:- 22.9.2025

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Sri Atul Dayal, learned Senior Counsel assisted by Sri Prakash Chandra Dwivedi, learned counsel for the petitioners and Sri Ashish Agrawal, learned counsel for the respondents.

2. Brief facts of the case are that father of petitioner no.1/1, namely, Heera Lal Agrawal and the Firm Sunder Lal Ram Bharosey were the tenants of shop nos. 5/23 and 5/24, situated at Nehru Road, Farrukhabad and plaintiff-respondent no.1/Rajendra Prasad (now deceased) and plaintiff-respondent no.2/Virendra Prasad (now deceased) were the landlord of the same. Rajendra Prasad/plaintiff-respondent no.1 and Virendra Prasad/plaintiff-respondent no.2 instituted a case under Section 21(1)(a) of The Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (hereinafter referred to as the "U.P. Act No.13 of 1972") on 23.12.1992. The release was sought on the ground that the son of Rajendra Prasad, namely, Prabhat Kumar has to set up his business as well as for the purpose of the marriage of Prabhat Kumar. The plaint was subsequently amended by inserting paragraph no.6(A) which was allowed by the Prescribed Authority vide order dated

17.5.1996. In the aforementioned P.A.Case, written statement was filed on 6.12.1993 by father of plaintiffs-petitioners, namely, Heera Lal, denying the allegations of the plaint. During pendency of the aforementioned P.A. Case, amendment was sought by the defendant also which was allowed vide order dated 5.1.1996 and the amendments were incorporated in the written statement. Petitioners' father filed his additional written statement in reply to the amendment inserted in the release application. The Prescribed Authority vide order dated 30.8.1996 rejected the release application of plaintiff-respondent. Against the order dated 30.8.1996, plaintiffs-respondents filed appeal under Section 22 of the U.P. Act No.13 of 1972 which was registered as Rent Control Appeal No.65 of 1996. During pendency of the aforementioned appeal, plaintiff-respondent no.1 (Rajendra Prasad) died, accordingly, his wife Smt. Santosh Agrawal was substituted in the appeal as appellant no.1/1. Plaintiff-respondent no.2 Virendra Prasad Agrawal also died, accordingly, the legal heir was substituted in place of plaintiff-respondent no.2. Petitioners' father also died during pendency of appeal, accordingly, petitioners' mother, petitioners, brother and sisters were substituted. The appellate court vide judgment dated 25.11.1997 allowed the aforementioned appeal, set aside the judgment dated 30.8.1996 passed by the Prescribed Authority. Against the appellate order dated 25.11.1997, petitioners' father filed a Civil Misc. Writ Petition No.7808/1998 before this Court. This Court vide judgment dated 28.9.2000, allowed the aforementioned writ petition filed by the petitioners' father, setting aside the order dated 25.11.1997 and remanded the matter back before the appellate authority to examine the issue of bonafide need and comparative hardship in proper manner. After the remand order passed by this Court, plaintiff-respondent nos.1/1 and 2/1 to 2/4 filed an amendment application dated 21.7.2022 (58-A1) in Rent Control Appeal No.65/1996, stating that the original tenant Heera Lal Agrawal, his wife and sons have purchased a building situated at Lohai Road, Farrukhabad by four registered sale deeds dated 21.5.1984, as such, para no.6(A) of the release application should be deleted and another para (a) should be added. Petitioners filed their objection to the amendment application

dated 21.7.2022, stating that by way of amendment, the plaintiffs-respondents want to escape their admitted self-proposed-offer made in paragraph no.6(A) of the release application, as such, the amendment cannot be allowed. The appellate court vide order dated 29.4.2023 allowed the amendment application (paper no. 58-A1) filed by plaintiffs-respondents. Hence, this petition for the following relief:-

"Issue an order or direction for setting aside the impugned order dated 29.4.2023, passed by the Additional District and Sessions Judge/Special Judge (E.C. Act), Farrukhabad in Rent Control Appeal No.65 of 1996 (Rajendra Prasad and Others vs. Heera Lal and Others), whereby the amendment application (paper no.58-A) filed by the plaintiffs-respondents has been allowed, Annexure No.1 to the writ petition."

3. This Court entertained the matter on 26.5.2023 and stayed the effect and operation of the order dated 29.4.2023. In pursuance of the order of this Court, the parties have exchanged their pleadings.

4. Learned Senior Counsel for the petitioners submitted that while allowing the amendment application of the plaintiffs-respondents, the appellate court has exceeded its jurisdiction and misinterpreted the judgment dated 28.9.2000, passed by this Court. He submitted that after passing of the long considerable period, the plaintiff-respondent no.1/1 and 2/1 to 2/4 have filed amendment application (58-A) dated 21.7.2022, stating that the original tenants are wife and sons, who have purchased a building at Lohai Road, Farrukhabad by four registered sale deed dated 21.5.1984 which cannot be taken into consideration as well as allowed by the appellate court during pendency of the appeal against the order, rejecting the release application of the landlord. He further submitted that the appellate court has not considered the finding recorded by this Court while deciding the Writ Petition No.7808/1998. He further submitted that the amendment has been sought after 26 years from the date of filing of release application which is abuse of process of law. He submitted that the impugned order dated 29.4.2023 should be set aside and

amendment application filed by the plaintiffs-respondents should be rejected.

5. On the other hand, learned counsel for the plaintiffs-respondents submitted that paragraph no.6(A) of the release application was incorporated by the answering respondent by means of an amendment which was only an offer and the said offer was never accepted by the petitioners. He further submitted that petitioners filed additional written statement in which paragraph no.6(A) of the release application was categorically denied, hence, the offer made by the answering respondent was rejected by the petitioners, as such, the answering respondents are free to withdraw the said offer. He submitted that this court while remanding the matter to the appellate court, has referred the contents of paragraph no.6(A) of the release application and has observed that the contesting respondents by their statement of facts made in paragraph no.6(A) of the release application has not been withdrawn specifically. He further submitted that this Court while remanding the matter, directed the authority to take into consideration the offer made by the petitioners to provide suitable shop to the contesting respondents while deciding the appeal. He submitted that the appellate court has rightly allowed the amendment application filed by the answering respondent for deleting paragraph no.6(A) from their release application. He submitted that offer was made by landlord in the year 1996 and since then circumstances and requirements have changed, as such, there is no bar to file amendment application during pendency of the proceeding. He further submitted that no limitation is prescribed for filing the amendment application, as such, there is no illegality in allowing the amendment application. He submitted that no interference is required against the impugned order, allowing the amendment application and instant petition filed by the petitioners should be dismissed. He placed reliance upon the judgment of this Court reported in **2019 0 Supreme (All) 2200, Shiv Mohan Pal vs. Shiv Mohan Pal @ Hakla** in support of his arguments.

6. I have considered the arguments advanced by learned counsel for the parties and perused the records.

7. There is no dispute about the fact that the application for release filed by plaintiffs-respondents-landlord was rejected by the Prescribed Authority vide order dated 30.8.1996 and the appeal filed by the plaintiffs-respondents was allowed vide order dated 25.11.1997, setting aside the order of the Prescribed Authority dated 30.8.1996 and the release application filed by the landlord was allowed. There is also no dispute about the fact that in writ petition filed by the tenant, the order passed by the appellate court has been set aside vide judgment dated 28.9.2000 and the matter was remanded back before the appellate authority to decide the appeal afresh, taking into consideration the offer made by the petitioners to provide the suitable shop to the contesting respondents at Lohai Road, Farrukhabad. There is also no dispute about the fact that after remand order dated 28.9.2000, passed by this Court, the proceeding started before the appellate court and an amendment application (58-A) filed by plaintiff-respondent has been allowed under the impugned order.

8. In order to appreciate the controversy involved in the matter, perusal of paragraph no.6(A) of the release application which was added by way of amendment vide order dated 7.5.1996, will be relevant which is as under:-

"6अ- यह कि विपक्षीगण की लोहाई रोड फर्रुखाबाद स्थित सम्पत्ति उतने ही किराये पर लेने को तैयार है जितना कि किराया प्रश्नगत दुकान का विपक्षीगण द्वारा प्रार्थीगण को दिया जा रहा है। यदि विपक्षीगण लंबे सड़क (लोहाई रोड) तत्काल निर्माण करवाकर उपरोक्त सम्पत्ति न्यायालय द्वारा निर्धारित समय के अन्दर प्रार्थीगण को किरायेपर देने को सहमत हो जाते हैं।"

9. The perusal of the additional written statement filed by the tenant dated 17.5.1996 will also be relevant which is as under:-

"न्यायालय नियत प्राधिकारी / सिविल जज हवाली क.प्र.। फर्रुखाबाद।

पी.ए. वाद संध्या 21 वर्ष 1992

राजेन्द्र प्रसाद

प्रति

हीरा लाल

अतिरिक्त प्रतिवाद पत्र विपक्षीगण निम्नलिखित है :-

1. यह कि प्रार्थना एक की संशोधित चरण संख्या 6अ गलत एवं मिथ्या तथ्यों पर आधारित होने के साथ ही मलिन मन्तव्य की भावनाओं की कुवेष्टाओं से जनित है, और उसमें किये गये कथन विपक्षीगण को स्वीकार नहीं है।

2. यह कि प्राणीगण का कथन भाविष्य की सम्भावनाओं एवं कल्पनाओं से ओतप्रोत होने से उसका क्रियान्वयन किया जा सकना कठिन स्थिति को उत्पन्न करता है।

3. यह कि संशोधन द्वारा प्रार्थीगण ने विरोधाभाषी कथन उत्पन्न किया है जो किसी निश्चित मन्तव्य से प्रकरण में उलझन पूर्ण स्थिति उत्पन्न करने के निश्चित विचार से किया गया है अन्यथा चरण संख्या 6 अ में किये गये कथनों की कोई वास्तविकता नहीं है।

4. यह कि संशोधनोपरान्त जिस प्रकार के अनुतोष की आकांक्षा की गयी है वह इस माननीय न्यायालय के सीमा अधिकार की परिधि के बाहर की विषयवस्तु है और प्रार्थीगण के गलत सोच पर आधारित है।

5. यह कि प्रार्थन पत्र की चरण संख्या 6अ सम्यक सिद्धान्त को भी आधारित करती है और हर स्थिति में अविधिक एवं अग्राह्य है।

उपरोक्त कारणों से संशोधनोपरान्त भी प्रार्थीगण का प्रार्थना पत्र सव्यय अपास्त किये जाने योग्य है।

मैं हीरालाल आज दिनांक 17.5.96 को स्थान फतेहगढ़ में इस अतिरिक्त प्रतिवाद पत्र की चरण संख्या 1 से 5 के समस्त कथनों को अपने निज के ज्ञान से सही व सच होना सत्यापित करता हूँ।

हीरालाल अग्रवाल"

10. It is material to mention that release application filed by landlord was rejected by the Prescribed Authority but in appeal, the release application was allowed by the appellate court. This Court while allowing the writ petition, filed by the tenant and remanding the matter back before the appellate authority, has made observation regarding the averment made in paragraph no.6(A) of the release application which has not been withdrawn by the landlord, should be taken into consideration by the court while considering the release application of the landlord. The operative portion of the judgment of this Court will be relevant for perusal which is as under:-

"The writ petition succeeds and is allowed. The judgment and order dated 25.11. 1997 passed by the respondent no. 1 is hereby quashed. The case is remanded to the Appellate authority for decision afresh in the light of the observations made above. The Appellate Authority shall also take into consideration the offer made by the petitioner to provide a suitable shop to the contesting respondents at Lohai Road while deciding the appeal. It is further observed that the appeal shall be decided expeditiously."

11. After remand order passed by this Court, the amendment application (paper no.58-A-1) has been filed by the plaintiffs-

respondents, stating that the averment made in paragraph no.6(A) should be read as under:-

"2-"63- यह कि हीरालाल मालिक फर्म सुन्दर लाल रामभरोसे के थे। उनके मरने पर उनके दोनों पुत्रों में बंटवारा हो गया जिसमें दीपक अग्रवाल फर्म सुन्दर लाल रामभरोसे का तन्हा मालिक हुआ और राजीव कुमार अग्रवाल को भट्टा व्यवसाय मिला। बाद में राजीव कुमार अग्रवाल ने नेहरू रोड फर्रुखाबाद पर ट्रस्ट श्री मथुरा प्रसाद से एक दुकान किराये पर ली उसमें वह सर्राफा का व्यवसाय कर रहा है। हीरालाल के पुत्र दीपक अग्रवाल फर्म सुन्दर लाल रामभरोसे का तन्हा मालिक है। वह प्रार्थना पत्र में वर्णित दुकान में सर्राफा का व्यवसाय कर रहा है। हीरालाल, मिथलेश कुमारी, राजीव अग्रवाल व दीपक अग्रवाल ने एक सम्पत्ति वादग्रस्त सम्पत्ति से एक फर्लांग की दूरी स्थित लोहाई रोड फर्रुखाबाद में वज्रिए चार बैनामा दिनांक 21-5-1984 खरीद की और उसमें दुकाने निर्माण बनवाई जिसे वाद में छोटा कर दिया गया। दो दुकाने किराये पर उठा दी गयी एक दुकान अभी भी खाली पड़ी है। उन्होंने एक दुकान अशोक मिश्रा व दूसरी दुकान सर्वेश शुक्ला को किराये पर उठा दी। विपक्षी दीपक कुमार के पास फर्रुखाबाद नगर पालिका क्षेत्र में अपनी दुकानात है।"

मैं इस संशोधन प्रार्थना पत्र का कथन अपने निजी ज्ञान के आधार पर सच व सही होजा सत्यापित करता हूँ। यह सत्यापन आज दिनांक 1-7-22को स्थान फतेहगढ़ किया गया।

अपीलार्थीगण"

12. The appellate court has considered the amendment application dated 21.7.2022 (paper no.58-A-1), considering the entire aspect of the matter to the effect that offer was made by landlord at the relevant point of time but tenant was not ready to accept the offer and at present that offer cannot be satisfied by the landlord in view of the present facts and circumstances of the case.

13. It is material to mention that release application was filed by the landlord in the year 1992 and till date the landlord is contesting for the release of a shop from the tenants. It is also material to mention that the tenant has specifically denied the amended paragraph no.6(A) of the release application, as such, there is no illegality in the impugned order, allowing the amendment application of the landlord with respect to paragraph no.6(A) of the release application.

14. Considering the entire facts and circumstances of the case, there is no illegality in the order impugned, allowing the amendment application filed by the landlord under the impugned order dated 29.4.2023.

15. No interference is required in the matter.

16. The instant petition is dismissed and the appellate court is directed to decide the pending Rent Control Appeal No.65/1996, expeditiously preferably within a period of 3 months from the date of production of the certified copy of the order, after affording opportunity of hearing to the parties, in accordance with law.

17. No order as to costs.

(Chandra Kumar Rai,J.)

September 22, 2025

C.Prakash