

Court No. - 2**Case :-** WRIT - A No. - 4460 of 2025**Petitioner :-** Rao Khalid Mahmood**Respondent :-** Additional District Judge Court No.-8 Saharanpur And 9 Others**Counsel for Petitioner :-** Anand Prakash Paul,Brij Bhushan Paul**Counsel for Respondent :-** Ashish Kumar Singh,C.S.C.**Hon'ble Saral Srivastava,J.**

1. Heard Sri Anand Prakash Paul, learned counsel for the petitioner, learned Standing Counsel for State respondent no.2 and Sri Ashish Kumar Singh, learned counsel for respondent no.3.
2. The petitioner by means of the present writ petition under Article 226 of the Constitution of India has assailed the order dated 05.02.2025 passed by the Additional District Judge, Court No.8, Saharanpur in Misc. Case No.106 of 2024 (Rao Khalid Mahmood Vs. M/s Laxmi Construction and others), whereby the Additional District Judge has rejected the application of the petitioner under Section 5 of the Limitation Act, and also held that the petitioner has no *locus standi* to file the present application in appeal against the order of the Rent Authority dated 07.09.2022 passed in Rent Case No.2082 of 2022.
3. The facts, in brief, are that the respondent nos. 3 & 4 filed a Release Application No.34 of 2021 (M/s Laxmi Construction and others Vs. Harsh Goyal and others) against the respondent nos.5 & 6, namely, Harsh Goyal and Rajesh Goyal) for property in dispute i.e.1410/2, Kothi Rose Bank, Ahmad Bagh, Civil Lines, Saharanpur. In the said release application, respondent nos. 7 to 10 were also impleaded as proforma respondents. The release application was contested by the respondent nos. 5 & 6.

4. The Rent Authority by its judgement and order dated 07.09.2022 allowed the Release Application No.2082 of 2022 (Old No.34 of 2021).
5. The respondent nos.5 & 6, thereafter, preferred an Appeal No.57 of 2022, under Section 35 of the Uttar Pradesh Regulation of Urban Premises Tenancy Act, 2021 before the Rent Tribunal. The Rent Tribunal by the judgement and order dated 22.01.2024 dismissed the appeal.
6. Against the order dated 22.01.2024, the respondent nos.5 & 6 preferred Writ-A No.1821 of 2024, which was dismissed by this Court by judgement and order dated 14.05.2024.
7. The respondent nos.5 & 6, thereafter, preferred Special Leave to Appeal (C) No.21177 of 2024, which was also dismissed by the Apex Court by the order dated 20.09.2024. The Apex Court passed the following order:

“1. After having heard learned counsel for the parties, we do not find any ground to interfere with the impugned judgement passed by the High Court. The Special Leave Petition is accordingly dismissed.

2. Learned counsel for the petitioners prays for minimum six months' time to vacate the suit premises. In the facts and circumstances of the case, we direct that the suit premises shall be vacated by the petitioners on or before 31.03.2025 subject to payment of rent and arrears thereof. The petitioners shall hand over the vacant possession of the suit premises to the respondents on or before 31.03.2025 and shall not part with or create third party right therein. The petitioners shall file a usual undertaking in this regard within a period of two weeks from today before the Registrar, High of Judicature at Allahabad. The violation of the aforesaid terms would be treated as non-compliance of the order of this Court.

3. Pending interlocutory application (s), if any, is/are disposed of.”

8. Before the Apex Court, respondent nos. 5 & 6 gave an undertaking that the suit premises shall be vacated by the petitioner on or before 31.03.2025 subject to payment of rent and arrears thereof.

9. It seems that before the judgement and order passed by the Rent Authority could be executed, appeal under Section 35 of the Uttar Pradesh Regulation of Urban Premises Tenancy Act, 2021 has been instituted by the petitioner on the ground that the petitioner is the owner of the suit property, therefore, the release application filed by the respondent nos. 3 and 4 was nothing, but an abuse of the process of the Court.

10. It is stated in the memo of appeal that the suit property was owned by the predecessors of the petitioner, namely, Late Rao Mahmood Ahmad Khan who executed sale deed in favour of Gyanwati w/o Late Suraj Bhan on 27.06.1963. On the same day, a reconveyance deed was also executed between the predecessors of the petitioner and Gyanwati stipulating therein that the suit property would be reconveyed to the predecessors of the petitioner. Subsequently, an agreement to sale was executed by the predecessors of the petitioners and Gyanwati on 29.05.1965 in favour of Chaudhary Bharat Singh, Chaudhary Charat Singh and Chaudhary Som Prakash for a sale consideration of Rs.40,000/-, out of which Rs.32,000/- was to be given to the predecessors of the petitioner and Rs.8,000/- was to be given to Gyanwati.

11. The predecessors of the petitioner executed a sale deed of their shares pursuant to the agreement to sale dated 29.05.1965 in favour of the aforesaid three persons, namely, Chaudhary Bharat Singh, Chaudhary Charat Singh and Chaudhary Som Prakash on 27.06.1965. However, Gyanwati refused to execute any sale deed, which led the aforesaid three persons, namely, Chaudhary Bharat Singh, Chaudhary Charat Singh and Chaudhary Som Prakash to institute Original Suit No.31 of 1966 against

Gyanwati on the basis of the agreement dated 29.05.1965 for execution of sale deed of the share of Gyanwati. The suit was decreed by the Trial Court by the judgement and decree dated 31.10.1969.

12. Gyanwati, thereafter, preferred First Appeal No. 389 of 1969 against the judgement and decree of the Trial Court in Original Suit No.31 of 1966, which was dismissed by this Court vide judgement and order dated 07.12.1982. Thereafter, Gyanwati preferred Special Leave Petition against the judgement and order dated 07.12.1982 in First Appeal by this Court, which was also dismissed by the Apex Court.

13. Thereafter, in execution proceeding, Gyanwati executed a sale deed of her share in favour of the aforesaid three persons, namely, Chaudhary Bharat Singh, Chaudhary Charat Singh and Chaudhary Som Prakash, the decree holder.

14. It further transpires that in the meantime, the petitioner instituted Original Suit No. 307 of 1999 on the basis of Clause-4 of the agreement to sale dated 29.05.1965 executed by the predecessors of the petitioner in favour of the aforesaid three persons, namely, Chaudhary Bharat Singh, Chaudhary Charat Singh and Chaudhary Som Prakash, Clause-4 of the agreement to sale provided for reconveyance of the suit property.

15. The suit has been decreed by the Trial Court by order dated 26.10.2023, against which First Appeal No.74 of 2022 has also been preferred by Som Prakash, which is still pending.

16. On the basis of the decree passed in Original Suit No. 307 of 1999, the petitioner preferred an appeal challenging the order of the Rent Appeal No.106 of 2024 on the ground that the petitioner is the owner of the suit property, and therefore, the release application instituted by the respondent nos. 3 and 4 was nothing but an abuse of the process of the law as the respondent nos. 3 and 4 are neither the owners nor the landlord

of the suit property, therefore, they could not get released the suit property.

17. Along with the appeal, they also filed an application under Section 5 of the Limitation Act for delay in filing the appeal. The Rent Tribunal by order dated 05.02.2025 dismissed the delay condonation application by holding that the petitioner has no locus standi to file such an application. Accordingly, it held that the application is misconceived. Accordingly, the Rent Tribunal dismissed the delay condonation application as well as rent appeal.

18. Challenging the aforesaid order, learned counsel for the petitioner has contended that the Rent Tribunal has committed manifest error of law which is apparent on the face of record in entering into the merits of the case inasmuch as while considering the delay condonation application, the Rent Tribunal has no jurisdiction to enter into the merits of the case and to record a finding on the *locus standi* of the petitioner. It is contended that the Rent Tribunal has completely misdirected itself in deciding the delay condonation application, and therefore, the impugned order cannot be sustained in law.

19. Learned counsel for the petitioner has further contended that the respondent no.3 has come into existence in the year 2013 which consisted of five partners, and since admittedly, the suit property was not sold to the respondent no.3, therefore, respondent no.3 was neither the landlord nor the owner of the property and did not have any right to institute the release application. It is contended that the sale deed in favour of the aforesaid three persons, namely, Chaudhary Bharat Singh, Chaudhary Charat Singh and Chaudhary Som Prakash was executed in the year 2019.

20. Per contra, learned counsel for the respondents would contend that the petitioner has no *locus standi* to file the Rent Appeal. It is contended that the Rent Tribunal has not committed any illegality in rejecting the

application of the petitioner inasmuch as the petitioner has no *locus standi* or interest whatsoever in the suit property since admittedly, the predecessors of the petitioner had sold out the suit property and the petitioner is claiming the right over the suit property on the basis of decree passed on 26.10.2023 in Original Suit No.307 of 1999.

21. I have considered the rival submissions advanced by the learned counsel for the parties and perused the record.

22. The detailed facts have already been delineated above, therefore, they are not being reiterated to unnecessarily burden the judgement.

23. In the instant case, the admitted position is that the suit property was earlier owned by the predecessors of the petitioner, who executed a sale deed in favour of Ghyaniwati on 27.06.1963. On the said same day, i.e. 27.06.1963 a reconveyance deed was also executed between the predecessors of the petitioner along with Gyanwati. An agreement to sale in favour of Chaudhary Bharat Singh, Chaudhary Charat Singh and Chaudhary Som Prakash on 29.05.1965. Admittedly, pursuant to the agreement to sale dated 29.05.1965, the predecessors of the petitioner sold their share by sale deed dated 27.06.1965. This shows that after 29.05.1965 the predecessor of the petitioner lost all interest in the suit property. Since, there was the dispute with regard to the share of Gyanwati who did not execute the sale deed pursuant to the agreement to sale dated 29.05.1965 which led the three persons i.e. Chaudhary Bharat Singh, Chaudhary Charat Singh and Chaudhary Som Prakash to institute the suit for specific performance of contract which was decreed by the trial Court, and the decree of the trial Court was affirmed by the Apex Court also. In pursuance to the decree in suit for specific performance, the sale deed was executed by Gyanwati in the year 2019 in favour of the aforesaid three persons.

24. The petitioner is claiming reconveyance in view of Clause-4 of the sale deed dated 27.06.1965 executed by the predecessors of the petitioner in favour of the aforesaid three persons namely **Chaudhary Bharat Singh, Chaudhary Charat Singh and Chaudhary Som Prakash** and instituted a suit seeking a decree for direction to execute an agreement to sale which was decreed by the trial Court on 26.10.2023. Thus, it is evident that till the decree of the trial Court in Original Suit No.307 of 1999, the petitioner has no interest whatsoever in the property whereas release application has been filed by the respondent no.3 and 4 in the year 2022.

25. The possession of the aforesaid three persons namely, Chaudhary Bharat Singh, Chaudhary Charat Singh and Chaudhary Som Prakash over the suit property was in accordance with law, and they have been given possession of the suit property pursuant to the sale deed executed by the predecessors of the petitioners pursuant to the valid sale deed executed by the predecessors of the petitioners.

26. In such view of the fact, on the date when the release application was filed by the respondent, the petitioner has no interest whatsoever in the suit property. The decree of the trial Court in Original Suit No. 307 of 1999 is *sub-judice* before the first Appellate Court and has not attained finality. The petitioner can enter into the suit property till the decree of the trial Court in Original Suit No.307 of 1999 is affirmed and the decree is executed as per law. The petitioner is neither owner/landlord nor tenant of the property admittedly as the suit property has been sold out by the predecessor of the petitioner to aforesaid three persons namely, **Chaudhary Bharat Singh, Chaudhary Charat Singh and Chaudhary Som Prakash.**

27. It transpires from the release application enclosed with the Writ Petition No.3557 of 2025 that it is a partnership firm duly constituted by

legal heirs of the aforesaid three persons namely, Chaudhary Bharat Singh, Chaudhary Charat Singh and Chaudhary Som Prakash in whose favour the suit property devolved on the basis of sale deed dated 27.06.1965.

28. In such view of the fact, petitioner was not at all aggrieved by the order of rent authority allowing the release application of respondent nos.3 and 4 against respondent nos.5 and 6. This Court finds that the Revisional Court has given cogent reason in recording that the petitioner has no *locus standi* to file appeal and delay condonation application.

29. This Court may also note that the petitioner is claiming the suit property on the basis of decree in Original Suit No.307 of 1999, therefore, the petitioner could get the suit property only when the decree of the trial Court in Original Suit No.307 of 1999 attains finality and the same is executed in accordance with law.

30. In such view of the fact, as of today petitioner cannot be said to be an aggrieved person by the order of the rent authority allowing release application of respondent no.3, and therefore, this Court does not find any illegality in the judgment and order of Rent Tribunal.

31. So far as the contention of the learned counsel for the petitioner that the respondent no.3 who instituted the release application by respondent no.4 came into existence in the year 2013 is concerned therefore, they have no right to file the release application as they were not the owner of the suit property. This court put a query from the counsel for the petitioner from the memo of appeal as to whether any such plea has been raised in the memo of appeal but the counsel for the petitioner stated that no such plea has been raised. Even otherwise, it has been held that the petitioner had no right whatsoever over the suit property till the decree in Original Suit No.307 of 1999 has attained finality and is executed in accordance with law and the petitioner is put in possession over the suit property

pursuant to the decree. The release application was matter between landlord and tenant and does not determine any rights and title of the parties.

32. In such view of the fact, this Court is of the view that no right of the petitioner is prejudiced by the order of the rent authority, and therefore, the petitioner is not aggrieved person by the order of rent authority dated 07.09.2022 passed in Rent Case No.2082 of 2022, and thus, the appeal of the petitioner against the order of Rent Authority dated 07.05.2022 was misconceived and was not maintainable. Accordingly, the Rent Tribunal has not committed any illegality in dismissing the delay condonation application registered as Misc. Case No.106 of 2024 by order dated 05.02.2025.

33. Thus, for the reasons given above, the writ petition lacks merit and is dismissed .

Order Date :- 20.5.2025

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