

Neutral Citation No. - 2024:AHC:197105

Court No. - 4

Case :- MATTERS UNDER ARTICLE 227 No. - 15798 of 2024

Petitioner :- Smt. Munni Devi

Respondent :- Smt. Shashikala Pandey

Counsel for Petitioner :- Prakhar Tandon

Counsel for Respondent :- Shiv Kumar Yadav

Hon'ble Ajit Kumar,J.

1. Heard Sri Prakhar Tandon, learned counsel for the petitioner and Sri Utpal Chatterjee and Sri Shiv Kumar Yadav, learned counsel for the respondent-landlord.

2. By means of this petition filed under Article 227 of Constitution of India, petitioner has assailed the judgment and decree passed by the Judge, Small Cause dated 29.02.2024 in SCC Suit No.190 of 2013 as well as the order dated 07.11.2024 dismissing his revision-petition.

3. The sole argument advanced by learned counsel for the petitioner for assailing the order passed in revision is that the revisional court did not apply its mind at all to the argument advanced by respective parties before it and after recording their argument simply concluded in paragraph 11 of the judgment that he did not find any error or illegality in the order assailed and hence the revision-petition was liable to be dismissed.

4. Upon a pointed query made to learned counsel appearing for the landlord-respondent, as to how he could be defending the order passed in revision-petition, Sri Utpal Chatterjee, one of the learned Advocates for the respondent very fairly concedes that the recital as contained in paragraph 11 of the judgment cannot be said to be an adjudication as a result of application of mind by the presiding judge and therefore, requested that this order may be set aside and matter may be remitted to the court below for a decision afresh on merits.

5. Having heard learned counsel for the respective parties and having perused the order passed by the Judge, Small Causes, namely, Dr. Amit Verma, the Additional District and Sessions Judge, Court No.16, Kanpur Nagar, I find that the concerned judge has not rendered at all due application of his mind which was very much required by a judge adjudicating a *lis*. A mere reference to the arguments of the respective parties does not suffice the need required, for proper adjudication of a *lis*.

6. The manner and method in which the revision has been dealt with cannot be approved of by this Court. Paragraph No. 11 of the judgment is reproduced as under:-

11. "पत्रावली के अवलोकन और विपक्षी के तर्कों को सुनने के उपरांत इस न्यायालय का यह अभिमत है कि अवर न्यायालय के आलोच्य आदेश में कोई विधिक असंगतता या त्रुटि प्रतीत नहीं होती है। अतः पुनरीक्षण स्वीकार किये जाने योग्य नहीं है। तदनुसार निस्तारित किया जाता है।"

7. No prudent man would be arriving at such above conclusion just after referring the arguments of the respective parties and certain authority that were cited with by the respective parties.

8. Every judge who has to adjudicate the points on the issue raised in the matter, is not only required to refer to the arguments advanced on behalf of respective parties but also to deal with the same to arrive at a conclusion as to whether the judgment assailed is suffering from any error of law or facts or there is some gross error in assessment and analysis of the evidence by the court whose order has been challenged.

9. It is well settled principle that revision has facets of an appeal and therefore, when the revision petition is preferred for there is no appeal available under the relevant statute, it is a duty cast upon the judge to look into all aspects of the matter from both the points of view of the revision applicant as well as respondents in whose favour the decree has been passed. From a judge in the rank of Addl. District and Sessions Judge it is expected that he would not only apply his judicial mind to issues raised but also be dealing with the arguments advanced on behalf of the respective parties very meticulously to arrive at findings which would be reflecting a sound judicial approach of a varied and wide experience of such a judicial officer.

10. In view of the above, the judgment and order dated 07.11.2024 is hereby set aside. The matter is remitted to the court of revision to be decided afresh within a maximum period of two months from the date of production of certified copy of this order.

11. District Judge, Kanpur Nagar, is directed to assign this revision petition again to the same Additional District and Sessions Judge, Court No.16, Kanpur Nagar, if still posted in his judgeship. In the meanwhile and until decision afresh is taken in revision petition, the judgment and decree dated 07.11.2024 passed by the court concerned in SCC Revision No.130 of 2024 shall remain stayed.

12. The writ petition succeeds and is ***allowed*** as above.

13. Registrar General is directed to circulate this order to all judgeships of the State.

Order Date :- 17.12.2024
Deepika