

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No(s). 26/2016

KRISHNA DEVI MAHESHWARI

Appellant(s)

VERSUS

SURENDRA SUREKHA

Respondent(s)

J U D G M E N T

R. BANUMATHI, J.:

(1) We have heard Mr. V.C. Shukla, learned counsel appearing for the appellant.

(2) The appellant-landlord filed the petition under Section 21(i)(a) of the U.P. Urban Building (Control of Letting of Rent and Eviction) Act, 1972 for release of the premises let out to the respondent-tenant for personal use of the appellant's son who is practicing as an advocate.

(3) On 05.09.2012 the Prescribed Authority passed an ex-parte order against the respondent-tenant. There were number of proceedings/applications pending between the appellant-landlord and the respondent-tenant. Grievance of the appellant-landlord is that the respondent-tenant kept on taking adjournments by filing one after another applications and thereby the matter could not be proceeded.

(4) The respondent's application for setting aside the ex-parte order of eviction dated 05.09.2012 was allowed by the Prescribed Authority/ACMM-IX, Kanpur Nagar, on 20.08.2015 on

payment of cost of Rs.2500/-. Challenging the said order, the appellant-landlord filed writ petition before the High Court being C.M.W.P. No.48964 of 2015. In the said writ petition, the appellant-landlord filed an application under Order VI Rule 17 read with Section 151 of C.P.C. before the High Court to amend the prayer and to challenge the subsequent Order dated 25.08.2015. Vide impugned Order dated 15.09.2015, the High Court disposed of C.M.W.P. No.48964 of 2015 by holding that the rent court has set aside the ex-parte decree/order and granted an opportunity to the respondent-land on payment of cost of Rs.2500/-. The said writ petition was disposed of by the impugned order dated 15.09.2015 directing that none of the parties to take unnecessary adjournments, which is the subject matter of challenge in this appeal.

(5) In spite of notice, the respondent-tenant has not chosen to appear and contest the appeal.

(6) Considering the facts and circumstances of the case and having regard to the fact that an opportunity has been provided to the respondent-tenant to file the written statement, we are not inclined to interfere with the impugned order. However, taking note of the conduct of the respondent-tenant and the facts and circumstances of the case, we direct the Rent Court-Prescribed Authority/ACMM-IX, Kanpur Nagar, U.P., to take up Rent Case NO.1 of 2012 at an early date and dispose of the same within a period of two months from the date of receipt of copy of this order. The respondent-tenant

shall render all cooperation and in case the respondent-tenant does not cooperate for an early disposal of Rent Case No.1 of 2012, as ordered by this Court, learned Rent Court/Prescribed Authority shall proceed with the matter in accordance with the law and dispose of the same within two months from the date of receipt of copy of this Order, as indicated above.

(7) With the above direction, the civil appeal is accordingly disposed of. There shall be no orders as to costs.

.....J.  
(R. BANUMATHI)

.....J.  
(A.S. BOPANNA)

.....J.  
(HRISHIKESH ROY)

NEW DELHI,  
OCTOBER 01, 2019.