

Court No. - 32

Case :- WRIT - C No. - 7677 of 2020

Petitioner :- Justice Anjani Kumar And Another
Respondent :- State Of U.P. And 4 Others
Counsel for Petitioner :- Tarun Agrawal
Counsel for Respondent :- C.S.C., Ankush Tandon

Hon'ble Shashi Kant Gupta, J.

Hon'ble Pankaj Bhatia, J.

This writ petition has been filed, inter alia, for the following reliefs:

"(A) Issue a writ, order or direction in the nature of mandamus commanding the respondent no. 2 and 4 to restore the possession of the property to the petitioners, being House no. 27/13, Jawaharlal Nehru Road Prayagraj after evicting the respondent no. 5 and his family in exercise of powers conferred by Rule 21(2)(i) and Rule 22(1) of the U.P. Maintenance and Welfare of Parents and Senior Citizens Rules, 2014."

The submission of the learned counsel for the petitioners is that the petitioner no. 1 is a former Judge of this court and petitioner no. 2 is his wife. He further submits that the petitioners, who

are senior citizens, have been illegally evicted from their house no. 27/13, Jawahar Lal Nehru Road, Prayagraj (hereinafter referred to as "disputed house"). Apart from other properties/houses, the disputed house is registered in the name of the petitioners. A number of allegations have been made by the petitioners against their son i.e. respondent no. 5 namely Chandan Kumar. He further contended that the name of the petitioner no. 1 has also been recorded in the record of the Nagar Nigam, Prayagraj and the respondent no. 5 has no right to evict the petitioners forcefully.

The allegations made against the respondent no. 5 have been rebutted by him by filing a short counter affidavit which is taken on record.

Heard Mr. Tarun Agrawal, learned counsel for the petitioners and Mr. Anoop Trivedi, learned Senior counsel assisted by Mr. Ankush Tandon, learned counsel for the respondent no. 5 and learned Standing Counsel for the State respondents and perused the record.

Admittedly, the petitioners no. 1 and 2 are senior citizens and respondent no. 5 is their son and petitioner no. 2 is a registered owner of the disputed house and according to them, the respondent no.5 has illegally evicted them from the house in dispute and have prayed that their possession may be restored back to them.

It has not been disputed by the petitioners that for redressal of their grievances, they have a remedy

under the **Uttar Pradesh Maintenance and Welfare of Parents and Senior Citizens Act, 2007** and **Maintenance and Welfare of Parents and Senior Citizens Rules, 2014** (hereinafter referred to as ' Act' and 'Rules' respectively). Although the Legislature has enacted the aforesaid laws but no mechanism has been provided for implementation of the orders passed thereunder.

Considering the facts and circumstances of the case, we grant liberty to the petitioners to file appropriate application/ petition under the **Uttar Pradesh Maintenance and Welfare of Parents and Senior Citizens Act, 2007** and **Uttar Pradesh Maintenance and Welfare of Parents and Senior Citizens Rules, 2014** before the respondent no. 2, District Magistrate, Prayagraj within ten days from today along with a copy of this order enclosing therewith the relevant papers including the Annexures annexed with the present writ petition. The respondent no.5 is directed to appear before the District Magistrate on 19.11.2020. Thereafter, the District Magistrate shall proceed with the matter and decide the aforesaid application/ petition of the petitioners in accordance with law by a speaking and reasoned order after hearing the petitioners and the respondent no. 5 by touching all the issues raised by the parties within a period of two months from the date of receipt of the said application/petition. In case the petitioners feel aggrieved with the order of the District Magistrate, they are granted liberty to place a copy of the said order before this court for perusal of this court and for passing further orders .

Learned counsel for the petitioners undertakes to serve a copy of the aforesaid application/ petition upon the respondent no. 5 before filing the said application/petition before the District Magistrate . In case the respondent no. 5 refuses to receive the said application, the petitioners shall send a copy of the said application to respondent no. 5 through speed post and also serve a copy thereof to his counsel Mr. Anoop Trivedi.

Mr. Anoop Trivedi assures that full cooperation shall be extended by the respondent no. 5 in deciding the aforementioned application/ petition filed by the petitioners before the District Magistrate.

This order has been passed with the consent of learned counsel for the parties .

It is made clear that this court has not expressed any opinion on the merits of the case and the concerned authority has to take decision on its own merits and the parties are free to raise all the issues before the District Magistrate.

List this matter for further orders on 8.2.2021.

Order **Date** :- 15.10.2020
MLK