

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

ON THE 16TH DAY OF AUGUST, 2021

BEFORE:

HON'BLE SHRI JUSTICE MANOJ KUMAR TIWARI

WRIT PETITION (M/S) No. 806 of 2021

BETWEEN:

Mohd. Yunus. ...Petitioner
(By Mr. T.P.S. Takuli, Advocate)

AND:

Sri Naveen Jha. ...Respondent
(By Mr. Siddhartha Sah, Advocate)

JUDGMENT

Respondent sought release of a shop by filing an application under Section 21(1)(a) of U.P. Act No. 13 of 1972, in which petitioner is the respondent. The said application is registered as Rent Control Case No. 18 of 2018 before Prescribed Authority/Civil Judge (Senior Division), Nainital. Petitioner is aggrieved by order dated 20.03.2021, whereby adjournment application moved on his behalf was rejected and his opportunity for filing objection was also closed on the ground that adequate time has already been given to the petitioner for filing objection.

2. Learned counsel for the petitioner submits that due to fever, petitioner's counsel could not file objection to the release application within given time. In support of this contention, learned counsel for the petitioner has referred to Annexure No. 5 to the writ petition, which indicates that petitioner's counsel was vaccinated for COVID-19 on 16.03.2021. Learned

counsel for the petitioner gives undertaking on behalf of his client that objection to the release application shall be filed positively within one week from today.

3. Learned counsel for the respondent submits that, despite seven opportunities granted to him, petitioner did not file his objection. Thus, according to him, this is a delaying tactics adopted by the petitioner, who is a tenant in the shop in question.

4. Be that as it may, the fact remains that Courts are supposed to decide cases on merits and not on technicalities. Liberal approach has to be adopted in such matters to do complete justice between the parties, particularly in cases where the other side can be compensated with costs. Hon'ble Supreme Court, in the case of State of Punjab & another Vs. Shamlal Murari & another, reported in (1976) 1 SCC 719, in paragraph no. 8 has held as follows:

'Processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. Procedural prescriptions are the hand-maid and not the mistress, a lubricant, not a resistant in the administration of justice. Where the non-compliance, though procedural, will thwart fair hearing or prejudice doing of justice to parties, the rule is mandatory. But, grammar apart, if the breach can be corrected without injury to a just disposal of the case, the Court should not enthrone a regulatory requirement into a dominant desideratum. After all, Courts are to do justice, not to wreck this end product on technicalities.'

5. Thus, having regard to the facts & circumstances of the case, the writ petition is allowed and the impugned order dated 20.03.2021 is set aside. Petitioner shall be at liberty to file objection to

the release application within ten days from today, subject to payment of cost of ₹ 10,000/- to the respondent within one week.

6. As the release application was filed in the year 2018, therefore, learned Prescribed Authority is requested to make every endeavor to hear and decide Rent Control Case No. 18 of 2018 as early as possible, preferably within a period of one year from the date of production of certified copy of this order.

7. Let a certified copy of this order be issued within 24 hours.

(MANOJ KUMAR TIWARI, J.)