

SL. No	Date	Office reports, orders or proceedings or directions and Registrar's order with Signatures	Notes, or order
	25.07.2024		<p style="text-align: center;">COURT'S OR JUDGES'S ORDERS</p> <p>WPMS No. 2011 of 2024</p> <p><b><u>Hon'ble Vivek Bharti Sharma, J.</u></b></p> <p>Mr. Piyush Garg, counsel for the petitioner.</p> <p>2. Mr. Sagar Kothari, counsel for the caveator.</p> <p>3. Counsel for the petitioner would submit that the respondent nos. 1 &amp; 2 filed an application under Section 21(1)(a) of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (<i>in short 'the Act'</i>) before the Prescribed Authority/Civil Judge (Senior Division), Haridwar by making the respondent no.3 (<i>widow of the brother of petitioner</i>), the only defendant in the release application; that, the respondent nos. 1 &amp; 2/applicants in collusion with respondent no. 3/defendant no. 1 filed the said release application without making the petitioner a defendant, when the petitioner was the sole tenant of the property in question; that, when the petitioner came to know about this collusion, then the petitioner filed an application under Order 1 Rule 10 C.P.C. r/w Section 151 C.P.C., which was allowed and the petitioner was impleaded as defendant no. 2 in the said release application.</p> <p>He would further submit that thereafter, the Prescribed Authority/Civil Judge (Senior Division), Haridwar vide judgment and order dated 29.03.2023 allowed the release application of the respondent nos. 1 &amp; 2; that, feeling aggrieved, the petitioner/defendant no. 2 filed Rent Control Appeal No. 28 of 2023 before the court of 2<sup>nd</sup> Additional District Judge, Haridwar, which was also dismissed vide judgment and order dated 11.07.2024. Hence this writ petition.</p> <p>4. Counsel for the petitioner/defendant no.2 would further submit that the impugned judgments and orders passed by the courts below are unsustainable in the eyes of law as the mandatory notice of six months to tenant as per proviso to Section 21(1) of the Act was never served upon the petitioner/defendant no.2 before filing the release</p>

application; that, both the courts below failed to appreciate that respondent nos.1 & 2 and respondent no. 3/defendant no. 1 were in league and collusion, therefore, the notice served upon the respondent no. 3/defendant no. 1 cannot be presumed to be the notice to the petitioner/defendant no.2 as well.

5. Per contra, counsel for the respondent no. 1 & 2/applicants would submit that as per the definition of 'tenant' under Section 3(a) of the Act, all the legal heirs of the original tenant, as in the present case, are the joint tenants, thus, after the death of brother of the petitioner/defendant no. 2, respondent no. 3/defendant no. 1 (*widow of the brother of petitioner*) and the petitioner/defendant no. 2 are joint tenants over the property in question and, therefore, statutory notice of six months served upon respondent no. 3/defendant no. 1 shall be deemed to be a notice upon the petitioner/defendant no. 2.

He prays for and is granted time to file a detailed counter affidavit.

6. In view of the above submissions made by the counsel for the respective parties, this Court is of the considered view that the matter needs deliberation.

7. Admit the petition.

8. Issue notice to the respondent no. 3 through ordinary process and registered post, acknowledgement due as well as by email and WhatsApp, if available.

9. Steps to be taken within two weeks.

10. **List this matter on 18.12.2024.**

11. Till the next date of listing, the effect and operation of the impugned judgment/order dated 29.03.2023 passed by the Prescribed Authority/ Civil Judge (Senior Division), Haridwar as well as the impugned judgment/order dated 11.07.2024 passed by the 2<sup>nd</sup> Additional District Judge, Haridwar shall remain stayed.

12. Stay Application (*IA No. 01 of 2024*) stands disposed of.

**(Vivek Bharti Sharma, J.)**

25.07.2024