

ITEM NO.5

COURT NO.9

SECTION XI

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)...../2007

CC 533/2007

(From the judgement and order dated 29/08/2006 in CMWP No. 31336/2002 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

SURESH CHANDRA AGARWAL

Petitioner(s)

VERSUS

FAKIR CHANDRA GOVILA

Respondent(s)

With I.A. 1 (c/delay in filing SLP and office report)

Date: 31/01/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.P. MATHUR

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

For Petitioner(s)

Mr. Dinesh Kumar Garg,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

the suit Learned counsel for the Petitioner has submitted that
filed by the landlord for arrears of rent and eviction was dismissed in
revision by the IV Additional District Judge, Aligarh, by the order dated
25.5.2002. Thereafter, the landlord has filed a Writ Petition in
the High Court challenging the order of learned IV Additional District Judge
and while admitting the said writ petition, the High Court has enhanced
the rent from Rs.100/- to Rs.2,000/- with effect from 1.9.2006 and has
issued a direction for deposit of the entire arrears of rent within a period
of two months. It has also been directed that in case of default
of

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payment of arrears of rent, landlord can get the disputed premises
vacated with the help of police force. Learned counsel has submitted that
in a case where an order of eviction or release is passed against a tenant
and he files a writ petition and makes a prayer for staying the order of
release or eviction passed against him, the High Court can direct the
tenant to deposit a higher amount as rent as a condition for grant of a
stay order. However, in the present case, the order under challenge in

the writ petition, is in favour of the tenant and the landlord has assailed

the correctness of the same. In such circumstances, it is urged, the rent

cannot be enhanced to the extent to which it has been done by the High

Court. Learned counsel has also referred to an order passed by us on

21.1.2006 in S.L.P.(C) No.18453/2006 (Niyaz Ahmad Khan v. Mahmood

Rahmatullah Khan & Anr.) where this Court in similar circumstances

stayed the order passed by the High Court.

Issue notice.

Meanwhile, the impugned order dated 29.8.2006 passed by the

High Court by which the Petitioner has been directed to pay rent at the

rate of Rs.2,000/- p.m. with effect from 1.9.2006 is stayed. It is made

clear that the petitioner shall continue to pay or deposit the rent at the

rate at which he was doing earlier. It is further made clear that this

order will not come in the way of the High Court to hear and decide the

writ petition expeditiously.

(K.K. Chawla)

(Radha R. Bhatia)

