

Court No. - 9

Case :- WRIT - C No. - 11761 of 2023

Petitioner :- Nida Fatima Thru. Her Father Aqeel Ahmad

Respondent :- State Of U.P. Thru. Prin. Secy. Housing,
Lucknow And 3 Others

Counsel for Petitioner :- Faisal Ahmad Khan, Adnan Ahmad

Counsel for Respondent :- C.S.C., Ratnesh Chandra

Hon'ble Rajan Roy, J.

Hon'ble Jaspreet Singh, J.

Heard Shri Adnan Ahmad and Shri Faisal Ahmad Khan, learned counsel for the petitioner and Shri V.K. Shahi and Shri Ratnesh Chandra, learned counsel for the opposite parties.

This Bench has been constituted today under the orders of Hon'ble the Acting Chief Justice considering the urgency shown by the petitioner's counsel, as she apprehended demolition of her flat situated at F.I. Tower 37 Cantt. Road, Police Station - Kaiserbagh, Lucknow.

Although it has been stated in the petition that the flat of the petitioner is situated on sixth floor of the F.I. Tower but after arguing the matter at some length counsel for the petitioner reconciled to the fact that though in his deed it has been mentioned as sixth floor, it is possible that there is some confusion in this regard and the flat is actually situated on seventh floor. He had some explanation to offer in this regard just as was the case in Writ-C No.11753 of 2023 (Mohd Tauqeer Siddique Vs. Chairman Lucknow Development Authority Lucknow and 3 Others). He says that he may be given benefit of the said order.

He also says that after passing of the aforesaid order, three other orders were passed and in one of the orders dated 25.12.2023 passed in Writ-C No.11754 of 2023, the Court has provided that in the event any order is passed by the Chairman, L.D.A. exercising his appellate power, he shall upload a copy of his order within 24 hours and provide a certified copy of the same to the petitioners therein and thereafter a week's time shall be available from the date of uploading of the order and provision of certified copy to the petitioners, to avail other remedies and during the said period the said orders as also the order impugned therein shall not be given effect. He has also invited our attention to another order passed on the same date in Writ-C

No.11755 of 2023 wherein we have taken note of the submission that petitioners do not have requisite papers and the L.D.A. is not providing it to them therefore they propose to move an application for summoning relevant documents including compounding file relating to the premises in question and we have ordered that if the law permits, he may do so before the Appellate Authority which shall be considered accordingly by the latter, as per law. He seeks the benefit of the said orders also.

The counsel for the petitioner says that the petitioner resides in America and has filed this petition through her father, who resides in Faizabad. The petitioner did not know about the impugned order and therefore she could not get a certified copy of the same yet she filed an appeal through her father before the appellate authority but the same was not received on the ground that certified copy of the prescribed authority's order was not annexed. In these circumstances the petitioner filed the appeal by registered post to the appellate authority alongwith the application for interim relief but the same has not been registered as yet. He says that a fresh appeal be allowed to be filed alongwith application for condonation of delay in these compelling circumstances and the benefit of the orders passed earlier be granted.

Learned counsel for the petitioner also submits that the front portion of the flat has been partially demolished but thereafter in view of the orders passed in other similar matters, opposite parties not proceeded though there is every likelihood that further demolition will take place hence this writ petition.

He submits that considering the fact that it is a case of demolition of flat of the petitioner who claims to be a bonafide purchaser and in possession and also as valuable constitutional right to shelter under Article 21 and property under Article 300-A of the Constitution of India as also statutory rights under the Uttar Pradesh Urban Planning and Development Act, 1973, if any, are involved and if indulgence is not shown then it would result in irreparable loss and prejudice, therefore, keeping in mind the valuable rights involved, the same benefit as granted in other cases be granted.

Learned counsel for the opposite parties have vehemently opposed the writ petition just as they opposed the earlier writ petitions.

We have perused our earlier orders passed in Writ-C No.11753 of 2023, Writ-C No.11754 of 2023, Writ-C No.11755 of 2023 and Writ-C No.11756 of 2023.

Considering the facts and circumstances of the case, the petitioner is permitted to file an appeal before the appellate authority as per rules but without a certified copy of the order passed by the prescribed authority which can be obtained and filed subsequently, within next three working days. In the event such appeal is filed, the application for interim relief shall be considered in the light of our earlier order passed on 24.12.2023 in Writ-C No.11753 of 2023 and other orders dated 25.12.2023 passed in Writ-C No.11754 of 2023, Writ-C No.11755 of 2023 and Writ-C No.11756 of 2023. The benefit of the observations and directions therein shall be available to the petitioner of this petition also on the same terms.

Sri V. K. Shahi and Sri Ratnesh Chandra, learned counsel for the opposite parties shall immediately communicate this order, without waiting for its certified copy, to the Chairman and Vice-Chairman, Lucknow Development Authority, for strict compliance.

With the aforesaid direction, the instant writ petition stands **disposed of**.

The In-charge Senior Registrar of the Court shall also communicate this order to the aforesaid authorities forthwith.

(Jaspreet Singh,J.) (Rajan Roy,J.)

Order Date :- 28.12.2023
Saurabh