

Court No. - 7

Case :- WRIT - C No. - 6920 of 2025

Petitioner :- Mohammad Zaimul Islam

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Housing And Urban Planning Lko. And Another

Counsel for Petitioner :- Sachin Upadhyay, Bhavesh Chandel, Piyush Raj Verma, Shivendra S Singh Rathore

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

Hon'ble Pankaj Bhatia, J.

Heard Sri Shivendra Shivam Singh Rathore, Advocate and Sri Sachin Upadhyay, learned counsel for the petitioner and Sri Ratnesh Chandra, learned counsel for the respondent No.2.

Learned counsel for the petitioner has filed a supplementary affidavit and learned counsel for the respondent No.2 has filed a short counter affidavit, which are taken on record.

The present petition has been filed by the petitioner stating that the petitioner is an owner of the property in the present case being Shop No.112(a), Upper Ground Floor, situated at Sahara Bazar, Vibhuti Khand, Gomti Nagar, Lucknow.

It is argued that initially the property in question was leased to M/S Sahara India Commercial Corporation Limited in terms of the lease deed executed in its favour by the respondent which is contained as Annexure No.2 to the writ petition. The said lease deed was on payment of consideration and the said lease deed contained stipulation that the initial lease would be of period of 30 years and thereafter it will be extended subject to certain conditions. In the lease deed itself, there was a provision contained at para 8(ii) which entitled the lessee to transfer the building or any part thereof in favour of a third person, however, the second transfer was subject to transfer charge @ Rs.25/- square meter which was to be paid to the Lucknow Development Authority.

The petitioner submits that in pursuance to the said stipulation 8(ii), contained in the said lease deed, the main lessor i.e. the M/S Sahara India Commercial Corporation Limited executed the sale deed in favour of the petitioner vide registered sale deed dated 22.11.2000 in terms of the stipulation contained in the sale deed, which is annexed as Annexure No.5 to the writ petition i.e. the shop in question being Shop No.112(a), UGF was sold in favour of the petitioner. It is also stated that the transfer charges as stipulated in the main lease were also paid

and since then the petitioner is in possession of the shop in question. It is argued that subsequently vide order dated 03.05.2025, an order was passed against the main lessee indicating that the lease had been terminated in the year 2017. The said order also indicated that against the termination of lease, the main lessee had approach the Lucknow Development Authority in the year 2024. It was also stated by the main lessee that there were some structural problems in the building in question which can lead to an accident. It was also noticed that the main lessee had taken few of the shops and got vacated, however, some shops were still continuing and there were lot of filth around the building in question. In the light of the said, the representation filed by the main lessee for recalling the order, determining the lease, was rejected. It is argued that after the passing of the said order, no order whatsoever was passed by the Lucknow Development Authority against the petitioner, instead the Lucknow Development Authority issued a public notice stating that the main lease deed had been determined on 03.05.2025 and at present, the property in question was the property of the Lucknow Development Authority and further directions were given to vacate the premises by 05:00 PM. The said notice was published on 18.06.2025 and is contained as Annexure No.1 to the writ petition.

In the light of the said, the submission of the counsel for the petitioner is that the petitioner is owner of the shop in question by virtue of a sale deed executed in his favour, no proceedings have ever been issued for cancellation of the sale deed executed in favour of the petitioner, no notice has ever been given to the petitioner by the Lucknow Development Authority indicating that the sale deed, executed in favour of the petitioner, is being set aside or the lease hold rights, claimed by the petitioner, stands determined and the petitioner has been dispossessed without any process of law and the property in question, which is a shop, was sealed. This according to the petitioner is clearly in violation of rights conferred by virtue of Article 300A of the Constitution of India.

In the light of the said allegation, counsel for the respondent No.2, Lucknow Development Authority was called. He argues that the writ petition for the relief claimed is not maintainable inasmuch as the relief no.1 seeks the quashing of the order dated 03.05.2025. He further argues that in any case the said writ petition would be cognizable by the Division Bench and not before a Single Judge. He further argues that the main lessee, namely, M/S Sahara India Commercial Corporation Limited, with whom the petitioner claims the execution of the sale deed, had approached this Court by filing a writ petition bearing Writ C No.6210 of 2025, however, the same was

dismissed as withdrawn with liberty to avail such remedy as may be prescribed. It is argued that in furtherance of the said withdrawal, the main lessee i.e. M/S Sahara India Commercial Corporation Limited has initiated a suit, which is pending. In light of the said arguments, it is argued that once the main lessee had approached this Court and had failed, the petitioner claiming his right through the main lessee cannot approach this Court and should avail the remedy as available to the main lessee i.e. the filing of the civil suit. It is further argued that some of the persons who are similarly situated have approached the revisional authority by filing a revision under Section 41(3) of the Uttar Pradesh Urban Planning and Development Act, 1973 and their revisions are pending and in some cases, this Court had granted interim protection of maintaining status quo. It is further argued that in the present case also, this Court had passed the order of maintaining status quo and as on today, the camp office of the Lucknow Development Authority is running from the premises.

The first objection of the counsel for the respondent No.2 that the matter is cognizable by the Division Bench is rejected as the Stamp Reporter has marked the matter to be cognizable before Single Judge and no material is placed by the respondents to argue that the report is erroneous.

The second objection that the main lessee, namely, M/S Sahara India Commercial Corporation Limited had approached this Court and had withdrawn the petition and had filed a civil suit and thus the petitioner, who claims title from the main lessee, should also file a suit also merits rejection as the petitioner has averred that his Constitutional Rights under Article 300A are violated for which remedy under Article 226 of the Constitution of India is available.

Considering the submissions made at the Bar, ex-facie the action of the Lucknow Development Authority in interfering with the possession of the petitioner without adopting process of law, the rights accrued by virtue of Article 300A in favour of the petitioner, who claims his ownership and possession by virtue of a registered sale deed executed in his favour has been thrown to winds, no process known to law for eviction of the petitioner has been adopted by the Lucknow Development Authority, clearly dispossessing the petitioner in the manner in which it has been done is neither sanctioned by any law nor can be termed as 'due process of law', this Court has no hesitation in holding that the Lucknow Development Authority's Act of dispossessing the petitioner has violated the constitutional rights vested in favour of the petitioner by virtue of Article 300A of the Constitution of India, the same cannot be permitted

in a society known to be governed by rule of law, as such, the action of the respondents in dispossessing the petitioner from the Shop No.112(a) is quashed. The respondent No.2 is directed to put the petitioner in possession of the shop in question forthwith. For dispossessing the petitioner without any authority of law, the petitioner is entitled to cost of Rs.50,000/- to be paid by the Lucknow Development Authority, who have trespassed in the property of the petitioner without any authority of law.

The authority will however, be entitled to take action against the petitioner in accordance with law.

The writ petition stands **allowed** with the said directions.

(Pankaj Bhatia,J.)

Order Date :- 30.7.2025

Saurabh