

# SUPREME COURT OF INDIA

Hukum Chandra

Vs.

Vivek Singh

C.A.No.23775 of 2003

(R. C. Lahoti and Ashok Bhan JJ.)

09.02.2004

## ORDER

The Order of the Court is as follows

1. Leave granted.

2. A petition filed in the High Court seeking relief under Article 226 or 227 of the Constitution of India was entertained in the year 1993 by the then High Court of Allahabad. Consequent upon re-organisation of the State of Uttar Pradesh, the matter came to be transferred to the High Court of Uttaranchal at Nainital. On 24.11.2003, when the matter came up for hearing, the High Court formed an opinion that an alternate efficacious remedy of filing a revision as provided by Section 18 of *Uttar Pradesh Urban Buildings (Regulations on Letting, Rent and Eviction) Act, 1972* was available to the appellant, the petition did not lie. The petitioner in the High Court had explained in his petition the circumstances in which it was impracticable then to file the revision and therefore the writ jurisdiction of the High Court was being invoked. That explanation had found favour with the High Court while admitting the petition and issuing rule. After the matter had remained pending for little over 10 years, the High Court was not justified in dismissing the writ petition solely on the ground of availability of an alternative remedy. Availability of an alternate efficacious remedy does not implicitly and necessarily take away the jurisdiction of the High Court to hear a writ petition and exclusion of exercise of writ jurisdiction on account of availability of alternate remedy is a rule of discretion.

3. The learned counsel for the respondent No.1 has in all fairness not disputed the legal position as to power to the High Court to hear the writ petition but submitted that in view of the delay that has already taken place, the High Court, may be requested to hear and expeditiously dispose of the writ petition on merits.

4. The appeal is allowed. The order dated 24.11.2003 is set aside. The writ petition is remanded back to the High Court for hearing and decision on merits. The High Court is

requested to hear and decide the writ petition as expeditiously as it can and preferably within a period of four months from the date of communication of this order.

5. The parties through their respective counsel are directed to appear before the High Court on 8.3.2004. Status quo in the matter of possession over the suit property shall continue to be maintained by the parties till the date of decision by the High Court.

6. No order as to costs.