

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 20849 of 2017
(@ Special Leave to Appeal (C) No(s). 23078/2015)

UMASHANKAR SINGH

Appellant(s)

VERSUS

STATE OF U.P & ORS.

Respondent(s)

O R D E R

Leave granted.

We have heard learned counsel for the parties.

From the facts placed on record and submissions made before us, it appears that a fair price shop was allotted to respondent No.7 on 26.08.2004. Thereafter, apparently on the basis of some allegations, permission to run the fair price shop was suspended by an order dated 25.03.2006 and eventually the allotment was cancelled vide order dated 25.05.2006.

Subsequent to the cancellation of the allotment made in favour of respondent No.7, the appellant was allotted the fair price shop on 21.08.2006. After a gap of almost about 5 years, respondent No.7 moved an application on 24.05.2011 to recall the cancellation of his allotment. This application was dismissed by the Sub Divisional Magistrate (SDM), Lalgang, Pratapgarh and an appeal against that was also dismissed by the Commissioner, Allahabad Division, Allahabad on 12.06.2012.

Feeling aggrieved, respondent No.7 preferred a writ petition in the Allahabad High Court being CMWP No. 46991 of

2012 which was allowed by the High Court by its impugned judgment and order dated 29.05.2015. Thereafter, possession of the fair price shop was given to respondent No.7 and we are informed that respondent No.7 is still running the fair price shop.

We may mention that an order of *status quo* was granted by this Court on 10.08.2015 but it appears that possession of the fair price shop was given to respondent No.7 prior to the order passed by this Court granting status quo.

We are of the view that the entire matter needs to be looked into afresh by the SDM, Lalgang, Pratapgarh particularly keeping in mind that there is no finding recorded by the Licensing Authority or even by the Appellate Authority that respondent No.7 was not running the fair price shop in accordance with the terms of the licence/allotment.

In this view of the matter, we set aside the order passed by the High Court and remand the matter to the SDM, Lalgang, Pratapgarh for fresh consideration of the entire issue. The parties will be entitled to be heard by the SDM, Lalgang, Pratapgarh before a final decision is taken. Until the decision is taken by the SDM, Lalgang, Pratapgarh, respondent No.7 will continue to run the fair price shop.

We request the SDM, Lalgang, Pratapgarh to decide the matter within a period of three months from today.

The civil appeal is allowed. No order as to costs.

.....J.
[MADAN B. LOKUR]

.....J.
[DEEPAK GUPTA]

NEW DELHI;
DECEMBER 04, 2017.

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

Petition(s) for Special Leave to Appeal (C) No(s). 23078/2015

(Arising out of impugned final judgment and order dated 29-05-2015 in CMWP No. 46991/2012 passed by the High Court Of Judicature At Allahabad)

UMASHANKAR SINGH

Petitioner(s)

VERSUS

STATE OF U.P & ORS.

Respondent(s)

Date : 04-12-2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTAFor Petitioner(s) Mr. Yatindra Singh, Sr. Adv.
Mr. Govind Saxena, Adv.
Mrs. Mona K. Rajvanshi, AOR
Ms. Tajaswina Sagar, Adv.For Respondent(s) Mr. Sudhir Kumar Gupta, AOR
Mr. Abhinav Gupta, Adv.
Mr. Kunwar Ratnesh Ratn, Adv.
Mr. Satish Kumar, Adv.Mr. P.N. Mishra, Sr. Adv.
Mr. Ankur Prakash, Adv.
Mr. Vinay Garg, AOR

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The civil appeal is allowed in terms of the signed order.

(MEENAKSHI KOHLI)
COURT MASTER(KAILASH CHANDER)
COURT MASTER

[Signed order is placed on the file]