

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3494 OF 2010
(Arising out of SLP(C) No.23135/2007)

SANJAY KUMAR VAISH AND ORS.

Appellant(s)

:VERSUS:

RAJENDRA KUMAR AGARWAL AND ORS.

Respondent(s)

O R D E R

Leave granted.

Heard the learned counsel appearing on behalf of the parties.

After having gone through the impugned order passed by the learned Single Judge of the High Court of Judicature at Allahabad in Writ Petition No.91/RC/1995, we are of the considered opinion that the said impugned order cannot be sustained in law. The learned Single Judge committed an error in its finding that notice was not properly served on the tenants - respondents herein. More so when the postman was examined who had categorically stated that notice was tendered to the tenants but they refused. Refusal would make it to be proper and deemed service.

We are, therefore, of the considered opinion that the impugned order has to be set aside and we do so.

However, the learned counsel for the respondents prayed for time to vacate the premises on the ground that there is dearth of accommodation in the City of Lucknow and the respondents are carrying on their business since long.

Upon the respondents' filing usual undertaking in this Court within four weeks from today and subject to payment of all the arrears of rent together with monthly rent regularly, we direct that the respondents shall hand over peaceful and vacant possession of the premises to the appellant on or before 31st December, 2010. If they fail to do so, the appellant would be at liberty to execute the decree of eviction forthwith.

The appeal stands disposed of accordingly.

.....J
(DEEPAK VERMA)

.....J
(K.S. RADHAKRISHNAN)

New Delhi;
April 19, 2010.