



2026:AHC:175028

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 6301 of 2026

Neelabh Gupta

.....Petitioner(s)

Versus

Purshottam Das Gupta And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Aishvary Gupta, Shreesh Srivastava
Counsel for Respondent(s)	:	

A.F.R.

Court No. - 35

HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.

1. Heard Sri Shreesh Srivastava, learned counsel for the petitioner.
2. The present petition has been filed seeking to assail the order dated 31.03.2026 passed by the Additional District Judge, Court No. 9, Kanpur Nagar in Rent Appeal No. 99 of 2026 (Purshottam Das Gupta vs. Neelabh Gupta).
3. The petitioner-landlord is stated to have instituted proceedings under Section 4(3), 4(7) and 21(2) of the U.P. Regulation of Urban Premises Tenancy Act, 2021, registered as Rent Case No. 10460 of 2025, before the Rent Authority, Kanpur Nagar, seeking eviction of the respondents-tenants from the premises in question and also claiming arrears of rent. The said rent case came to be allowed by order dated 02.09.2025. Aggrieved by the said order, the respondents-tenants preferred Rent Appeal No. 99 of 2026 along with an application seeking condonation of delay and an application seeking interim protection.
4. By the order impugned, the Appellate Court has stayed the operation of the order dated 02.09.2025 passed by the Rent Authority in Rent Case No. 10460 of 2025.
5. The principal submission advanced on behalf of the petitioner is that the aforesaid interim protection could not have been granted, inasmuch as the appeal itself was accompanied by an application under Section 5 of the Limitation Act and the delay in filing the appeal has not, as yet, been

condoned.

6. The material facts noticed in the order impugned indicate that the parties had earlier been referred to mediation and, during the interregnum, proceedings pursuant to the order of the Rent Authority were being taken forward, culminating in issuance of *Amin Parwana* on 25.03.2026. The Appellate Court, having regard to the fact that, in the absence of interim protection, the appeal itself might be rendered infructuous, considered it appropriate to grant interim protection.

7. Learned counsel for the petitioner has sought to assail the aforesaid exercise of discretion by submitting that the mediation proceedings had already concluded before the order of stay was passed. In support of the submission, reliance has been placed upon the report of the Mediation Centre dated 24.02.2026, which records that the mediation proceedings had concluded and that the parties were not willing to pursue mediation any further.

8. Learned counsel for the petitioner, however, fairly does not dispute that the aforesaid report of the Mediation Centre was not brought to the notice of the Appellate Court, either by the respondent-tenant or by the petitioner-landlord, when the interim order came to be passed.

9. The mere pendency of an application seeking condonation of delay does not, by itself, denude the Appellate Court of the power to pass an appropriate protective order where the circumstances warrant preservation of the subject matter of the proposed appeal. The distinction between an order protecting the efficacy of the appellate remedy and an order entertaining or adjudicating the appeal on merits is material. While the question whether a delayed appeal is liable to be entertained has necessarily to be determined in accordance with law, the existence of such a threshold question does not invariably require the Court to permit the subject matter of the proposed appeal to be irreversibly altered in the meantime, particularly where such consequence may render the appellate remedy itself illusory. Interim protection in such circumstances is not an adjudication upon the sufficiency of the cause shown for condonation of delay, nor does it confer any substantive right upon the appellant; its

purpose is merely to preserve the position obtaining until the threshold issue is considered.

10. The aforesaid principle, however, cannot be understood as permitting the Appellate Court to proceed to adjudicate the appeal on merits without first dealing with the question of delay in accordance with law. The limited jurisdiction to preserve the subject matter of the proposed appeal stands on a different footing from the jurisdiction to entertain and decide the appeal itself. The former is protective and provisional in character; the latter necessarily depends upon the appeal having crossed the threshold prescribed by law. The distinction is material and has to be maintained so that an order intended merely to preserve the efficacy of the appellate remedy does not become a means of bypassing the statutory requirement governing a delayed appeal.

11. In the present case, the Appellate Court has not proceeded to hear or decide the appeal on merits. It has merely extended interim protection upon noticing that steps pursuant to the order under challenge had already commenced and that, in the absence of such protection, the appeal itself might be rendered infructuous. The order is thus protective in character and does not amount either to condonation of delay or to a determination that the appeal is maintainable. The circumstance that the application seeking condonation of delay remains pending, therefore, cannot, by itself, furnish a ground to hold that the Appellate Court acted without jurisdiction in granting limited interim protection.

12. There is an additional aspect which assumes significance. The petitioner now relies upon the report of the Mediation Centre dated 24.02.2026 to contend that the basis noticed by the Appellate Court for granting interim protection had ceased to exist. However, it is not disputed that the said report was not placed before the Appellate Court when the interim order was passed. The correctness of the exercise of discretion by the Appellate Court has to be assessed with reference to the material and circumstances which were before it at the time of passing the order and not by introducing, at a later stage, a material document which was admittedly not brought to its notice. The subsequent availability of such material may furnish a ground for seeking appropriate relief before

the Appellate Court itself, but it does not, in the circumstances of the present case, establish that the order impugned was without jurisdiction or suffered from a manifest error warranting interference under Article 227 of the Constitution of India.

13. The jurisdiction under Article 227 is supervisory and not appellate. This Court would, therefore, not substitute its own assessment for the discretionary view taken by the Appellate Court merely because another view may also be possible. Interference would be warranted only where the exercise of discretion is shown to be perverse, arbitrary, manifestly unreasonable, or vitiated by a jurisdictional error. No such infirmity has been demonstrated in the present case. The order impugned, having been passed to preserve the efficacy of the appellate remedy without adjudicating the appeal on merits, does not call for interference.

14. The challenge to the order dated 31.03.2026, therefore, cannot be sustained.

15. Learned counsel for the petitioner, at this stage, has confined his prayer to a direction for expeditious disposal of the appeal. Attention of the Court has been drawn to the order-sheet to contend that, notwithstanding the passing of the order impugned and several dates having been fixed thereafter, the proceedings have not substantially progressed and the application seeking condonation of delay has also not yet been decided. It is, therefore, prayed that the Appellate Court may be directed to consider and decide the application seeking condonation of delay at the earliest and thereafter proceed with the appeal expeditiously.

16. Attention has further been drawn to Section 33(2) of the U.P. Regulation of Urban Premises Tenancy Act, 2021, which enjoins the Rent Tribunal to endeavour to dispose of the case as expeditiously as possible and, as far as practicable, within a period not exceeding sixty days from the date of receipt of the appeal.

17. Having regard to the nature of the controversy and the limited relief now pressed, and without expressing any opinion on the merits of the appeal or the application seeking condonation of delay, this Court considers it appropriate to issue a suitable direction for expeditious

progress of the proceedings. The direction herein is intended to ensure that the threshold question relating to limitation is considered without further delay and, depending upon the order passed thereon, the appeal is thereafter proceeded with in accordance with law.

18. In view of the order proposed to be passed, issuance of notice to the private respondent is dispensed with.

19. The present petition is, accordingly, disposed of with a direction that the Rent Tribunal/Appellate Court concerned shall endeavour to consider and decide the application seeking condonation of delay at the earliest and, upon passing appropriate orders thereon, proceed to conclude the appeal expeditiously, preferably within a period of sixty days from the date of presentation of a certified copy of this order, keeping in view the statutory mandate contained in Section 33(2) of the U.P. Regulation of Urban Premises Tenancy Act, 2021.

20. It is further observed that unnecessary adjournments shall not be granted to either of the parties and the proceedings shall be taken to their logical conclusion within the aforesaid period, subject, however, to there being no other legal impediment and to the cooperation of the parties.

(Dr. Yogendra Kumar Srivastava,J.)

August 19, 2026

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