



2026:AHC-LKO:63111

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

MATTERS UNDER ARTICLE 227 No. - 4994 of 2026

Smt. Smita Wadhawan

.....Petitioner(s)

Versus

Smt Rani Singh

.....Respondent(s)

Counsel for Petitioner(s)	:	Abhinav Singh, Shashank Singh
Counsel for Respondent(s)	:	

Court No. - 7

HON'BLE SAURABH LAVANIA, J.

1. Heard.
2. In view of order proposed to be passed, issuance of notice to the private-respondent is hereby dispensed with.
3. The instant petition has been preferred seeking following main relief(s):-

"(i) To issue appropriate order or direction commanding the Learned Rent Authority/Additional District Magistrate, Trans Gomti, Lucknow to decide and dispose the Case No. 4362 of 2025, Computerized Case No. D202510460004362 (Smt. Smita Wadhawan Vs. Smt. Rani Singh), expeditiously, within the time period as stipulated under Section 33(7) of the Uttar Pradesh Regulation of Urban Premises Tenancy Act, 2021 or within such timeframe as this Hon'ble Court deems appropriate;"

4. With regard to main relief sought in this petition, quoted above, Sri Abhinav Singh, the learned counsel for the petitioner says that Section 33(2) of the Uttar Pradesh Regulation of Urban Premises Tenancy Act, 2021 (in short "Act of 2021") is mandatory in nature and therefore the main relief sought in this petition is liable to be granted. Section 33 of the Act of 2021, referred, reads as under:-

"Section 33. Procedure to be followed in Rent Authority and Rent Tribunal.- (1) Save as provided in this Act, nothing contained in the Code of Civil Procedure, 1908 (Act. No. 5 of 1908) shall apply to the Rent Authority and Rent Tribunal, which shall be guided by the

principles of natural justice and shall have power to regulate their own procedure in the following manner, namely:-

(a) the landlord or the tenant may file an application or appeal before the Rent Authority or Rent Tribunal, as the case may be, accompanied by affidavit and documents, if any;

(b) the Rent Authority or Rent Tribunal, as the case may be, shall then issue notice to the opposite party, accompanied by copies of application or appeal, affidavit and documents;

(c) the opposite party shall file a reply accompanied by affidavit and documents, if any, after serving a copy of the same to the applicant;

(d) the applicant may file a rejoinder, if any, after serving the copy to the opposite party;

(e) the Rent Authority or Rent Tribunal, as the case may be, shall fix a date of hearing and may hold such summary inquiry as it deems necessary.

(2) The Rent Authority or Rent Tribunal, as the case may be, shall endeavor to dispose the case as expeditiously as possible, not exceeding a period of more than sixty days from the date of receipt of the application or appeal:

Provided that where any such application or appeal, as the case may be could not be disposed of within the said period of sixty days, the Rent Authority or Rent Tribunal, as the case may be, shall record its reasons in writing for not disposing of the application or appeal within that period.

(3) In every application or appeal, before the Rent Authority or Rent Tribunal, as the case may be, the evidence of a witness shall be given by affidavit:

Provided that the Rent Authority or Rent Tribunal, as the case may be, may where it appears to it that it is necessary in the interest of justice to call a witness for examination or cross-examination, order attendance of such witness to be present for examination or cross-examination.

(4) The provisions of the Code of Civil Procedure, 1908 (Act. No. 5 of 1908) regarding service of summons shall be applicable mutatis mutandis for service of notice by the Rent Authority or Rent Tribunal. In addition to the said mode of service, the service of notice to landlord or tenant may also be effected through e-mail, WhatsApp, SMS or other recognized electronic mode.

(5) Every application or appeal shall be in such form as may be prescribed.

(6) The Rent Authority or Rent Tribunal, as the case may be, shall not allow more than three adjournments at the request of a party throughout the proceedings and in case of reasonable and sufficient cause to do so, it shall record the reasons for the same in writing and order the party requesting adjournment to pay a reasonable cost.

(7) Every application under clauses (a), (b), (e), (f) and (g) of sub-section (2) of section 21 or under section 22 shall be decided within ninety days from the date of filing of such application before the Rent Authority.

(8) The Rent Authority shall decide every application filed under clause (c) and (d) of sub-section (2) of section 21 within thirty days from the date of filing of such application."

5. This Court finds no force in the aforesaid submission of the petitioner's counsel.

6. The 'Proviso' to section 33(2) of the Act of 2021 indicates that the Rent Authority or Rent Tribunal, as the case may be, can proceed with case or appeal after expiry of timeline provided in Section 33(2) of the Act of 2021, after recording its reasons in writing for not disposing the case or appeal within the period prescribed.

7. In addition to above, this Court also took note of the following authorities/pronouncements on the issue to the effect that "when the expression '*Shall*' be read/treated as '*May*' for holding a statutory provision as directory in nature":-

(i) Chief Controlling Revenue Authority, Bombay and the Superintendent of Stamps vs. Maharashtra Sugar Mills, Ltd., 1947 SCC OnLine Bom 25.

(ii) Kurban Hussen vs. Ratikant Nilkant Zanker, 1956 SCC OnLine Bom 159.

(iii) Khub Chand And Ors vs. State Of Rajasthan & Ors, 1967 AIR 1074.

(iv) Shyamcharan Sharma vs. Dharamdas, (1980) 2 SCC 151.

(v) Santosh Mehta vs. Om Prakash, (1980) 3 SCC 610.

(vi) Ram Murti vs. Bhola Nath, (1984) 3 SCC 111.

(vii) Ganesh Prasad Sah Kesari vs. Lakshmi Narayan Gupta, (1985) 3 SCC 53.

(viii) Ambalal Manibhai Patel vs. State of Gujarat, 1985 SCC OnLine Guj 98.

(ix) B.P. Khemka (P) Ltd. v. Birendra Kumar Bhowmick, (1987) 2 SCC 407.

(x) Union of India vs. Filip Tiago De Gama of Vedem Vasco De Gama, (1990) 1 SCC 277.

(xi) Nasiruddin vs. Sita Ram Agarwal, (2003) 2 SCC 577.

(xii) Bhavnagar University vs. Palitana Sugar Mill (P) Ltd., (2003) 2 SCC 111.

(xiii) *Unique Butyle Tube Industries (P) Ltd. vs. U.P. Financial Corpn., (2003) 2 SCC 455.*

(xiv) *Sharda Devi vs. Sankar Pal, 2015 SCC OnLine Utt 1677.*

(xv) *Surinder Singh Deswal vs. Virender Gandhi, (2019) 11 SCC 341.*

(xvi) *Vidarbha Industries Power Ltd. vs. Axis Bank Ltd, (2022) 8 SCC 352.*

(xvii) *Jamboo Bhandari vs. M.P. SIDC Ltd., (2023) 10 SCC 446.*

(xviii) *Rakesh Ranjan Shrivastava vs. State of Jharkhand, (2024) 4 SCC 419.*

8. For coming to the conclusion on the issue involved in the instant case that as to Whether Section 33(2) of the Act of 2021 is 'Mandatory' or 'Directory', this Court also took note of the following authorities/pronouncements:-

(a) In the case of ***Nasiruddin and others vs. Sita Ram Agarwal, (2003) 2 SCC 577***, the Hon'ble Apex Court observed as under:-

"38. Yet there is another aspect of the matter which cannot be lost sight of. It is a well-settled principle that if an act is required to be performed by a private person within a specified time, the same would ordinarily be mandatory but when a public functionary is required to perform a public function within a time-frame, the same will be held to be directory unless the consequences therefor are specified. In Sutherland's Statutory Construction, 3rd Edn., Vol. 3, at p. 107 it is pointed out that a statutory direction to private individuals should generally be considered as mandatory and that the rule is just the opposite to that which obtains with respect to public officers. Again, at p. 109, it is pointed out that often the question as to whether a mandatory or directory construction should be given to a statutory provision may be determined by an expression in the statute itself of the result that shall follow non-compliance with the provision.

39. At p. 111 it is stated as follows:

"As a corollary of the rule outlined above, the fact that no consequences of non-compliance are stated in the statute, has been considered as a factor tending towards a directory construction. But this is only an element to be considered, and is by no means conclusive."

(b) In the case of ***Topline Shoes Limited v. Corporation Bank, (2002) 6 SCC 33***, the Hon'ble Apex Court negated the argument raised that the State Commission constituted under the Consumer Protection Act, 1986, has no power to accept a reply filed beyond a total period of 45 days. It was held that such provision is not mandatory in nature. No penal consequences are prescribed and the period of extension of time "not exceeding 15 days", does not prescribe any kind of period of limitation. The provision is directory in nature. The provision is more by way of procedure to achieve the object of speedy disposal of such disputes. It is an expression of desirability in strong terms. But it falls short of creating any kind of substantive right in favour of the complainant by reason of

which the respondent may be debarred from placing his version in defence in any circumstances whatsoever.

(c) In the case of ***P.T. Rajan v. T.P.M. Sahir, (2003) 8 SCC 498***, the Hon'ble Apex Court held that where a statutory functionary is asked to perform a statutory duty within the time prescribed therefore, the same would be directory and not mandatory. It was held to the following effect:—

“45. A statute as is well known must be read in the text and context thereof. Whether a statute is directory or mandatory would not be dependent on the user of the words “shall” and “may”. Such a question must be posed and answered having regard to the purpose and object it seeks to achieve.

46. What is mandatory is the requirement of sub-section (3) of section 23 of the 1950 Act and not the ministerial action of actual publication of Form 16.

47. The construction of a statute will depend on the purport and object for which the same had been used. In the instant case the 1960 Rules do not fix any time for publication of the electoral rolls. On the other hand, section 23(3) of the 1950 Act categorically mandates that direction can be issued for revision in the electoral roll by way of amendment in inclusion and deletion from the electoral roll till the date specified for filing nomination. The electoral roll as revised by reason of such directions can, therefore, be amended only thereafter. On the basis of direction issued by the competent authority in relation to an application filed for inclusion of a voter's name, a nomination can be filed. The person concerned, therefore, would not be inconvenienced or in any way be prejudiced only because the revised electoral roll in Form 16 is published a few hours later. The result of filing of such nomination would become known to the parties concerned also after 3.00 pm.

48. Furthermore, even if the statute specifies a time for publication of the electoral roll, the same by itself could not have been held to be mandatory. Such a provision would be directory in nature. It is a well-settled principle of law that where a statutory functionary is asked to perform a statutory duty within the time prescribed therefore, the same would be directory and not mandatory. [See Shiveshwar Prasad Sinha v. District Magistrate of Monghyr, AIR 1966 Patna 144; Namita Chowdhary v. State of W.B., (1999) 2 Cal. L.J. 21; and Garbari Union Co-op. Agricultural Credit Society Ltd. v. Swapan Kumar Jana, (1997) 1 CHN 189].

49. Furthermore, a provision in a statute which is procedural in nature although employs the word “shall” may not be held to be mandatory if thereby no prejudice is caused. [See Raza Buland Sugar Co. Ltd. v. Municipal Board, Rampur, AIR 1965 SC 895; State Bank of Patiala v. S.K. Sharma, (1996) 3 SCC 364; Venkataswamappa v. Special Dy. Commr (Revenue), (1997) 9 SCC 128; and Rai Vimal Krishna v. State of Bihar, (2003) 6 SCC 401].”

(d) In the case of ***Priyambda Devi v. Prescribed Authority, Aligarh, and others, 1997 SCC OnLine All 578***, the Coordinate Bench of this Court observed as under:-

"5. From the facts disclosed in the petition, it appears that the petitioner is the landlady of the shop in question, which is under the tenancy of respondents No. 2 and 3. An application for release of the shop was filed

on 25.2.1995 on the ground of personal necessity which was registered as U.P.U.B. Case No. 17 of 1995. Despite valid service of notice on respondents No. 2 and 3, they did not appear in the court below and therefore, by order dated 10.4.1995, it was directed to proceed ex-parte. Thereafter, the respondents No. 2 and 3 appeared on 15th April, 1995 along with an application for recalling of the order to proceed ex-parte, which was allowed on 20.4.95. When the respondents again did not take any steps in the proceedings, the court below by its order dated 25.7.1995, ordered to proceed ex-parte. However, respondent No. 3 appeared and sought time on different dates for filing written statement, but the same was not filed and ultimately, the court below by order dated 1.12.1995, directed that if the written statement is not filed today by 4 p.m. on behalf of respondent No. 3, no further opportunity shall be given for the same. Again by order dated 15.12.1995, the court below allowed time till 30.1.1996 to file written statement by the opposite party. In the meanwhile, the sister of respondent Nos. 2 and 3 made an application for her impleadment in the proceeding which was also rejected on 9th July, 1996. In short, it appears that the proceeding was being adjourned or delayed on some or the other pretext at the instance of tenant/respondents with a view to linger the disposal of the case.

6. Rule 15(3) of the Rules provides eviction of a tenant from the building under the tenancy on the ground of bona fide requirement of the landlord either for residential purposes or for purposes of any profession, trade or business. Since the building is required on the ground of personal necessity of the land-lady, the Rule insists for its disposal as far as possible, within two months from the date of its presentation, to remove to hardship of the land-lord.

7. Rule 15(3) of the Rules framed under the Act provides as under:

“Every application referred to in sub-rule (1) shall, as far as possible, be decided within two months from the date of its presentation.”

8. Although the provisions contained in Rule 15(3) are not mandatory in nature but the Prescribed Authority is required to adhere to it strictly and the proceeding shall not be allowed to be delayed or lingered unnecessarily, unless there is sufficient and compelling reason for such a delay. In the absence of any plausible ground, the Prescribed Authority has to dispose of the application within the time provided in Rule 15(3). The intention and object of the rule is to ensure expeditious disposal of the cases where eviction is sought for on the ground of personal necessity of the landlord, so that the hardship of the landlord should not be allowed to continue for a long period and it should be remedied at the earliest. It has been seen that the proceeding of ejectment of the tenant is unnecessarily delayed at the instance of the tenant on some or the other frivolous grounds. A protracted proceeding will destroy the very object and spirit of the provision contained in Rule 15(3), therefore, in my view, the Prescribed Authority should not allow unnecessary adjournment and follow the rule strictly with all seriousness and decide such cases with promptness and without any delay to satisfy the requirement of Rule 15(3).

9. From the facts of the case, it is apparent that twice the Prescribed Authority passed the order to proceed ex-parte but it was ultimately recalled on the tenant's application. Therefore, unnecessary adjournments were sought for, as pointed out by the learned counsel for the petitioner only with the idea to stall the disposal of the proceedings.

10. Having considered the submissions and in the facts of the case, I am of the view that the petitioner at the first instance, may make an application before the Prescribed Authority drawing his attention to sub-rule (3) of Rule 15 of the Rules with a prayer to dispose of her application under Section 21(1)(a) of the Act at the earliest. This Court hopes and trust that in the event of filing of such an application along with the certified copy of this order, the Prescribed Authority shall try to dispose of the aforesaid application on merit, as expeditiously as possible, preferably within a period of two months from the date of filing of such application, after hearing the parties."

9. Upon due consideration of above, this Court is of the view that timeline provided in section 33(2) of the Act of 2021 is '*Directory*' and not '*Mandatory*'.

10. Taking note of the aforesaid, the present petition is ***dismissed*** for the main relief sought, quoted above. No orders as to cost.

11. Before parting, keeping in view the facts of the case and also the age of the petitioner, this Court finds it appropriate to observe that it is expected that the Authority concerned would decide the application/case, as indicated in prayer clause, quoted above, in accordance with law expeditiously.

(Saurabh Lavania,J.)

September 09, 2026

Arun/-