

(2023) 05 UK CK 0016

In the Uttarakhand High Court

Case No : Civil Revision No. 73 Of 2022

Adhiroha, (A Partnership Firm) And Another

APPELLANT

Vs

Swami Omkarananda Dharma Samsthan And Another

RESPONDENT

Date of Decision : 03-05-2023

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation Of Letting, Rent And Eviction) Act, 1972 — Section 20(4)
Transfer Of Property Act, 1882 — Section 111
Provincial Small Cause Courts Act, 1887 — Section 25
Code Of Civil Procedure, 1908 — Order 15 Rule 5

Citation : (2023) 05 UK CK 0016

Hon'ble Judges : Alok Kumar Verma, J

Bench : Single Bench

Advocate : Piyush Garg, Narendra Bali

Final Decision : Disposed Of

Judgement

Alok Kumar Verma, J

1. In S.C.C. Suit No.4 of 2021, "Swami Omkarananda Dharma Samsthan vs. Adhiroha (A partnership firm) and Others", pending before Additional District Judge, Tehri Garhwal, an amendment application was filed by the revisionists-defendants to the effect that the defendants are entitled to get benefit of Section 20 (4) of the Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 [U.P. Act No.XIII of 1972] (as applicable in the State of Uttarakhand) (in short, "Act, 1972), and, they are not liable to be evicted from the suit property in view of Order 15 Rule 5 CPC and Section 111 of the Transfer of Property Act, 1882. The said amendment application has been dismissed vide impugned order dated 02.08.2022. Hence, the present Revision under Section 25 of the Provincial Small Cause Courts Act, 1887.

2. Heard Mr. Piyush Garg, learned counsel for the revisionists and Mr. Narendra Bali, learned counsel for the respondent no.1-plaintiff.

3. Mr. Narendra Bali, learned counsel for the respondent no.1-plaintiff, contented that respondent no.1-plaintiff opposes the plea of the revisionists-defendants that revisionists-defendants are entitled to get benefit of Section 20 (4) of the Act, 1972.

4. Mr. Piyush Garg, learned counsel for the revisionists-defendants, submitted that the revisionists-defendants do not want to press the plea that the revisionists-defendants are entitled to get benefit of Section 20 (4) of the Act, 1972 in view of the admitted fact that the provisions of the said Act, 1972 are not applicable in the said SCC Suit. He further submitted that trial has not commenced yet.

5. After the said submissions of Mr. Piyush Garg, Advocate, Mr. Narendra Bali, Advocate, submitted that the plaintiff is not opposing the other prayer made through amendment application to amend the written statement.

6. Having regard the submissions of learned counsel for the parties, impugned order dated 02.08.2022 is hereby set aside. Learned Trial Court is directed to consider the amendment application, filed by the revisionists-defendants, afresh in view of the submissions of learned counsel for the parties as mentioned above.

7. With the consent of learned counsel for both the parties, Civil Revision (CLR No.73 of 2022) is disposed of accordingly.