
(2005) 05 AHC CK 0135

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 9918 of 1998

Art Press and Stationery Mart, Jhansi and Ors.

APPELLANT

Vs

Brij Mohan Lal Arora & Ors.

RESPONDENT

Date of Decision : 02-05-2005

Acts Referred:

Provincial Small Cause Courts Act, 1887 — Section 25

Citation : (2005) 05 AHC CK 0135

Hon'ble Judges : S.U.Khan, J

Final Decision : Dismissed

Judgement

S.U. Khan, J.—Landlord respondent No. 1 filed suit for eviction against tenant petitioners and respondent No. 3 being S.C.C. Suit No. 17/85 on the file of J.S.C.C./4, Additional Munsif, Jhansi. Trial Court held that petitioners defendant Nos. 1 to 4 had not sublet the tenanted accommodation to respondent No.3/ defendant No. 5. Trial Court also held that notice was illegal and effect less. Ultimately Trial Court by judgment and decree dated 27/10/1986 dismissed the suit. Against the said judgment and decree landlord filed S.C.C. Revision No. 317/86. A.D.J./Special Judge (E.C. Act), Jhansi by judgment and order dated 12/1988 remanded the matter to the Trial Court. This writ petition is directed against the aforesaid remand order.

2. The Revisional Court held that the Trial Court did not frame and decide the issue as to whether originally the shop in dispute was in tenancy occupation of Shailendra Kumar Jain and Sumant Prashad Jain and whether all the defendants are their family members. The Revisional Court also rightly held that the proper course was to remand the matter to the Trial Court as in revision it was not permissible to decide question of fact or to reassess the evidence.

3. I do not find any error in the impugned remand order. In view of the Division Bench authority of this Court in Laxmi Prasad v. Har Prasad Shukla, 1979 AWC 746 Court hearing revision under Section 25 of PSCC Act cannot reverse findings of fact even if such findings are erroneous in law and in such situation only Court

left open for the revisional course is to remand the matter.

4. Accordingly, I do not find any merit in this writ petition hence it is dismissed. The Trial Court is directed to decide the suit in pursuance of the remand order as expeditiously as possible.