
(2006) 10 AHC CK 0146
In the Allahabad High Court

Bindal Logistic Pvt. Ltd.

APPELLANT

Vs

Ashok Handloom Factory and Others

RESPONDENT

Date of Decision : 10-10-2006

Acts Referred:

Provincial Small Cause Courts Act, 1887 — Section 15, 16

Citation : (2006) 10 ADJ 193 : (2007) 1 AWC 23

Hon'ble Judges : Umeshwar Pandey, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Umeshwar Pandey, J.—Heard the learned Counsel for the revisionist.

2. This revision challenges the order of the court below dated 29.8.2006 whereby petitioner's prayer for dismissing the suit under Order VII, Rule 11. C.P.C. and Section 15 read with Schedule II Article 4 of the Provincial Small Cause Courts Act has been rejected.

3. It is contended by the learned Counsel for the revisionist that the suit is filed before the Judge Small Causes Court for the relief of eviction of the defendants and recovery of arrears of rent and damages in which the revisionist was arrayed as a party in his capacity as sub-tenant and defendant No. 1 has been pleaded to be the principal tenant. This fact is disputed by the revisionist claiming itself to be the principal tenant in the premises and the contention of the revisionist is accepted by defendant No. 1 also while stating that he has no concern with the premises in question nor he was ever inducted therein as a tenant by the landlord. On the basis of the aforesaid facts the learned Counsel has tried to emphasise that the question of tenancy has been disputed in the suit and such a dispute is not one which is to be taken cognizance of for its decision by the Court of Judge Small Causes. It is a subject-matter of regular civil suit.

4. I do not agree with the arguments advanced by the learned Counsel. The U.P. State amendment in Section 15 of the Provincial Small Cause Courts Act

specifically provides that a suit in relation to a relief for eviction by the lessor against the lessee from a building after determination of the lease shall be cognizable by the Court of Judge Small Causes only. Section 16 of the said Act makes it an exclusive Jurisdiction of that court. Therefore, this suit being a suit for relief of eviction of the tenant from the leased premises is a subject-matter covered under the exclusive Jurisdiction of the Court of Small Causes only and it would not lie before any regular civil court. The question as to whether the defendant No. 1 or the defendant No. 2 is the principal tenant, is such a dispute which has to be decided by the Court of Small Causes while. dealing with the subject at a relevant time of final hearing and final decision in the suit. Therefore, to say that the suit is not cognizable by the Small Causes Court is something which would be against the provisions of Sections 15 and 16 of the Small Cause Courts Act. The court below has very rightly rejected the prayers of the revisionist for dismissing the suit under Order VII, Rule 11, C.P.C. or for returning the plaint for proper presentation. This Court, therefore, in its revisional jurisdiction has no occasion to interfere in the said order.

5. The revision, thus, having been found to be without any merit and Substance, is hereby dismissed.