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**(1999) 10 AHC CK 0057**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 3842 of 1982

Habiburrahman

APPELLANT

Vs

Distt.Judge Jhansi and Others

RESPONDENT

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**Date of Decision :** 28-10-1999

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 15 Rule 5  
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —  
Section 30

**Citation :** (1999) 10 AHC CK 0057

**Hon'ble Judges :** Yatindra Singh, J

**Final Decision :** Disposed Of

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## Judgement

Yatindra Singh, J.—Sri Pyare Kishan (the contesting respondent) is the landlord of the shop in question. He filed a JSCC Suit No. 330 of 1994 for eviction of the petitioner. This suit was dismissed on 1391977. The contesting respondent filed a revision, which was allowed, by the revisional Court on 2141998 and the matter was remanded back for redecision in accordance with law. The petitioner thereafter filed an application to review the order dated 2141978. This review application was also dismissed on 791978. Thereafter the petitioner filed a revision before this Court. This was also dismissed on 2371979. The matter was taken up by the trial Court, who by its order dated 2871998 struck off the defence of the petitioner under Order XV of the Rule 5 of Civil Procedure Code (the C.P.C). The "petitioner filed a revision against the same, which was also dismissed on 1981980. Hence, the present writ petition.

2. The petitioner has sought relief for quashing of four orders. The three orders dated 3121981, 2441978, 791978 are passed by the revisional Court and one order dated 2071981 has been passed by the trial Court. So far as the order dated 2141978 and the order dated 791978 are concerned, the petitioner had filed a revision against the same, which was dismissed by this. Court on 2371979. The petitioner has not filed any copy of the judgment to show if he was granted any liberty to challenge the same. The petitioner is not entitled to any

relief for quashing of the orders dated 2141978 and 791978.

3. The petitioner has further sought quashing of the order dated 2071981 passed by the trial Court and the order dated 3121981 of the revisional Court dismissing the revision against the same. By these orders the Court below have struck off the defence of the petitioner and while striking off the defence of the petitioner, the Courts below have not considered the amount deposited under Section 30 of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (the Act). This is not correct. Apart from it, the petitioner in para19 of the writ petition has stated that petitioner is depositing the rent regularly and has not committed any default. Though para19 has been denied in para12 of the counter affidavit but there is no specific denial of the fact that petitioner is depositing the rent regularly. In view of the same the order dated 2071981 and 3121981 striking off the defence of the petitioner are quashed. The parties will appear before the trial Court on 29111999 and as the suit is very old one, the trial Court will decide the case expeditiously at an early date. With these direction the writ petition is disposed off. Petition disposed off