

(2025) 06 UK CK 0464
In the Uttarakhand High Court
Case No : Civil Revision No. 141 Of 2016

Jogendra Arora

APPELLANT

Vs

Anand Singh Mahara(Since Deceased) Through Legal
Representatives, Kamlesh Mahara & Ors.

RESPONDENT

Date of Decision : 10-06-2025

Acts Referred:

Provincial Small Cause Courts Act, 1887 — Section 25

Citation : (2025) 06 UK CK 0464

Hon'ble Judges : Alok Kumar Verma, J

Bench : Single Bench

Advocate : Rajendra Dobhal, Suryakant Maithani, B.D. Upadhyaya, Tushar Upadhyaya

Final Decision : Dismissed

Judgement

Alok Kumar Verma, J

1. The present Revision under Section 25 of the Provincial Small Cause Courts Act, 1887 has been filed challenging the judgment and decree dated 28.09.2016, passed by learned Judge, Small Cause Court/ District Judge, Pithoragarh in SCC Suit No.01 of 2015, by which, the learned Judge while decreeing the suit has directed the revisionist-defendant to vacate the tenanted property-in-question and handover the peaceful possession of the said property to the plaintiff within a period of three months from the date of the judgment. The defendant has been further directed to pay damages at the rate of Rs. 3,000/- per month from 09.05.2015 till the actual delivery of possession of the property.

2. The case of the respondent -plaintiff is that he is the owner and landlord of the shop and godown of Building No. 586, situated at Purana Bazar, District Pithoragarh. The defendant was the tenant of the plaintiff in the suit property at the rate of Rs. 3,000/-per month. In spite of repeated demands, rent was not paid by the defendant since 01.10.2014 to 31.03.2015. A notice dated

02.03.2015 was sent to the defendant demanding arrears of rent and to vacate the suit property. The defendant did not reply. Since 01.10.2014 to 31.03.2015 arrears of rent were not paid by the defendant, a notice dated 01.04.2015 was sent to the defendant demanding arrears of rent and possession of the suit property. The notice was received by the defendant. The defendant replied through his Advocate on 10.04.2015, in which, it was stated that the defendant has paid arrears of rent to the plaintiff in his account, opened in the State Bank of India. Since the possession of the suit property was not handed over to the plaintiff and outstanding amounts were not paid, the said suit was filed.

3. The revisionist-defendant filed his written statement before the trial court. He has stated in his written statement that the property in-question was running on rent for last 60 years and rent was enhanced time and again and at present, he is paying Rs. 3,000/- per month as rent. He paid rent by cash or by cheque or deposited in the bank. He sent rent through registered letters for the month of April to July, 2013, for the month of August, September, October and November, 2013, for the month of December, 2013 and for the month of January, February, March, April, May, June, and July to September, 2014. The rent was received by the plaintiff through cheques, sent by the registered letters. The plaintiff refused to receive rent after the month of October, 2014, therefore, rent was deposited in the State Bank of India. A suit was filed by the plaintiff, which was numbered as R.C.C. Case No. 2 of 2013, "Anand Singh Mahara vs. Jogendra Arora". The said case was dismissed on 26.08.2014. Therefore, the plaintiff is not entitled to file the present Suit against the defendant.

4. The trial court has framed the following points for determination:-

"(i) Whether plaintiff was in arrear of Rs. 18,000/- of rent in respect to shop in-question since 01.10.2014? if yes, its effect.

(ii) Whether vide notice 9C dated 01.04.2015, issued on behalf of the plaintiff, tenancy of defendant was terminated soon after 30 days of receiving of above notice? If yes, its effect.

(iii) Whether the Rent Control Case No. 02 of 2013, "Anand Singh Mahra vs. Jogendra Arora" was rejected as stated by the defendant? If yes, its effect.

(iv) Whether plaintiff is entitled to any relief claimed?"

5. The plaintiff had filed a copy of registered notice dated 01.04.2015 with acknowledgment, issued by the Advocate of the plaintiff to defendant and reply to the said quit notice.

6. The revisionist-defendant had filed photocopy of bank deposited slips, registered envelopes with acknowledgement, a letter for sending rent with cheque, registry receipt, carbon copy of letter with registry receipt, letter dated 07.11.2014 with registry receipt, registered envelope with AD and bank deposited slips in his evidence.

7. The respondent-plaintiff examined himself before the trial court
8. The revisionist-defendant examined himself as DW1 and one witness Chanchal Singh Chauhan, DW2.
9. The learned trial court has decided the point for determination no. 1 against the plaintiff and point for determination no. 2 in favour of the plaintiff. The trial court has held that the order dated 26.08.2014, passed in RCC Case No.02 of 2013, "Anand Singh vs. Jogendra Arora" does not operate as res judicata in the present matter. Accordingly, the point for determination no.3 has been disposed of.
10. Mr. Rajendra Dobhal, learned Senior Advocate assisted by Mr. Suryakant Maithani, learned counsel for the revisionist and Mr. B.D. Upadhyaya, learned Senior Advocate assisted by Mr. Tushar Upadhyaya, learned counsel for the respondents.
11. The respondent no.1 (now deceased, the original plaintiff) was the landlord of the property-in-question and the revisionist-defendant was the tenant of the property. The plaintiff served upon the defendant a notice dated 01.04.2015 to quit. But, the defendant did not vacate the property. The plaintiff, therefore, filed the said SCC suit.
12. Mr. Rajendra Dobhal, learned Senior Advocate contended that the sole ground was taken in the said quit notice that the tenant committed default in paying the rent for the period from 01.10.2014 to 31.03.2015, but the plaintiff has failed to prove the same, hence, the suit, filed by the plaintiff, ought to have been dismissed by the trial court.
13. This fact is not disputed between the parties that the Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (in short, "Act, 1972") (as applicable in the State of Uttarakhand) is not applicable in the present matter.
14. Mr. B.D. Upadhyaya, learned Senior Advocate appearing for the respondent – plaintiff, on the other hand, contended that as the provisions of the Act, 1972 did not apply to the property-in-dispute, it was open to the plaintiff to terminate the tenancy of the defendant.
15. The quit notice dated 01.04.2015 was given to the defendant which was fully legal and valid and if the Act, 1972 is not applicable, then suit for eviction is liable to be decreed after termination of tenancy without there being any default in payment of rent or any other ground. Therefore, for termination of tenancy, it is not necessary that the tenant must be defaulter.
16. The material portion of the quit notice dated 01.04.2015 is being quoted hereunder :-

The plaintiff sent notice to the defendant calling upon him to pay the rent of the property in his tenancy with effect from 01.10.2014 to 31.03.2015 within thirty

days of the receipt of the said notice and to vacate the property in his tenancy on the expiry of thirty days next after the receipt of the said notice. Thereafter, his tenancy shall stand determined.

17. Mr. Rajendra Dobhal, learned Senior Advocate appearing for the revisionist – defendant invited attention on the relief of the plaintiff where the plaintiff has claimed rent from 01.10.2014 to 09.05.2015. Mr. Rajendra Dobhal, learned Senior Advocate contended that in the light of the said relief, it is clear that the plaintiff had waived the quit notice dated 01.04.2015.

18. The quit notice dated 01.10.2014 is very clear of the intention of the plaintiff that he did not want to keep the defendant as his tenant and the tenancy shall stand determined on the expiry of the period of thirty days from the date of the service of the notice.

19. No other point has been raised on behalf of the revisionist.

20. This Court is of the considered view that the learned trial court is well justified in passing the impugned judgment and decree. I do not find any illegality or infirmity in the impugned judgment and decree dated 28.09.2016.

21. Consequently, the Civil Revision (CLR No.141 of 2016) stands dismissed with costs throughout.