
(1989) 07 AHC CK 0120
In the Allahabad High Court
Case No : Civil Revision No. 208 of 1988

Kunwar Yasmin Ali Khan

APPELLANT

Vs

Masood Ashraf Khan

RESPONDENT

Date of Decision : 25-07-1989

Acts Referred:

Citation : (1989) 2 AWC 1150

Hon'ble Judges : D.S. Sinha, J

Bench : Single Bench

Advocate : S.A. Khan, for the Appellant; S.M.A. Kazami, for the Respondent

Final Decision : Dismissed

Judgement

D.S. Sinha, J.—This revision came up for admission before Hon''ble Mr. Justice A.P. Misra. To assail the decree and judgment, giving rise to the instant revision, it was urged on behalf of the applicant that the learned court below had no jurisdiction to decide the question of title, and in doing so it committed an error. It transpired that the authorities on the question were conflicting and as such the case was referred to a larger Bench for deciding the question as to whether Judge, Small Cause Court committed any error in going into the question of title.

2. On the aforesaid reference, the matter was considered by a Division Court consisting of Hon''ble Mr. Justice N.N. Mithal and Hon''ble Mr. Justice B.N. Misra. The Division Court, vide its order dated 4th April, 1989, has opined that the Court of Small Cause has jurisdiction to decide any suit cognizable by it if the question of title is raised therein only incidentally. In Budhu Mal Vs. Mahabir Prasad and Others, , the Hon''ble Supreme Court has laid down that in a suit instituted by the landlord against his tenant on the basis of contract of tenancy, a question of title can incidentally be gone into and any finding recorded by a Judge, Small Causes, in this behalf can not be res-judicata in a suit based on title.

3. In view of the answer by the Division Court and the decision of the Hon''ble Supreme Court, noticed earlier, it becomes absolutely clear that the Judge, Small

Causes, had jurisdiction to go into the question of title in the suit, giving rise to the instant revision, and in doing so, it did not commit any error.

4. For what has been said above, it is apparent that this revision has no merit and is, therefore, dismissed.