

(1999) 03 AHC CK 0084

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 35048 of 1995

Mohd. Islam

APPELLANT

Vs

IIIrd Addl. Distt.Judge,Allahabad and Others

RESPONDENT

Date of Decision : 30-03-1999

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) 03 AHC CK 0084

Hon'ble Judges : Yatindra Singh, J

Final Decision : Allowed

Judgement

Yatindra Singh, J.—This is Writ Petition against the order dated 23111994 and 581995 striking out the defence of the petitioner.

2. The petitioner has deposited the rent. The petitioner admittedly has not deposited month to month rent. He has deposited three months rent together but not in the suit which is pending before the Respondent No. 2. if he has deposited the rent under Sec. 30 of the UP. Urban Buildings (Regulation of Letting, Rent and Eviction)Act, 1972, (the Act for short).

3. It is true that under Order XV, Rule 5, CPC the rent should have been deposited in the Court where the suit is pending but the fact still remains that tenant has deposited rent under Section 30 of the Act which the landlord can lift. According to the petitioner this was done under the mistake of the Counsel. In view of the fact I do not think that the Courts below are justified in striking off the defence.

4. The judgment of the Courts below dated 23111994 and 581995 are hereby quashed. The tenants are directed to deposited in future the month to month rent in the Court of Judge Khafifa, Allahabad. It is also made clear that this will not be prejudice the right of parties which were accrued to them under any other provision. The suit is old one. It may be decided expeditiously.

5. With the above observations the writ petition is allowed. Petition allowed.