

(2017) 08 AHC CK 0038
In the Allahabad High Court
Case No : 171 of 2017

M/S Pankaj Hotel and Ors.

APPELLANT

Vs

Bal Mukund and Ors.

RESPONDENT

Date of Decision : 30-08-2017

Acts Referred:

[Code of Civil Procedure, 1908](#), [Section 21](#)/
[Section 17](#) - Objections to jurisdiction - Suits for
immoveable property situate within Jurisdiction of different courts
[Bengal, Agra and Assam Civil Courts Act, 1887](#), [Section 25\(2\)](#) - Power to invest 31[Civil Judges (Senior Division)
and Civil Judges (Junior Division)] with Small Cause Court jurisdiction
[Provincial Small Cause Courts Act, 1887](#), [Section 25](#)/
[Section 15\(2\)](#)/
[Section 15](#)/
[Section 17](#)/
[Section 15\(3\)](#) - Revision of decrees and orders of Courts of Small
Causes - Cognizable of suits by Courts of Small Causes - Cognizable of suits by Courts
of Small Causes - Application of the Code of Civil Procedure - Cognizable of suits by
Courts of Small Causes
[Uttar Pradesh Urban Buildings \(Regulation of Letting, Rent and
Eviction\) Act, 1972](#), [Section 16](#)

Citation : (2017) 08 AHC CK 0038

Hon'ble Judges : Surya Prakash Kesarwani

Bench : Single Bench

Advocate : Rahul Chaudhary, Lalit Kumar

Final Decision : Dismissed

Judgement

1. Heard Sri Rahul Chaudhary, learned counsel for the defendant-revisionist, Sri P.K. Jain, learned Senior Advocate assisted by Sri Lalit Kumar, learned counsel for the respondent-plaintiff no. 1/3 and Sri Nitin Kesarwani, learned counsel for the plaintiff-respondent no. 3/1 in SCC Revision No. 171 of 2017. Also heard Kshitij Shailendra, learned counsel for the defendant-revisionist and Sri Ninit Kesarwani, learned counsel for the plaintiff-respondent no. 3/1 and Sri Lalit Kumar, learned counsel for the plaintiff-respondent no. 1/3 in SCC Revision No. 172 of 2017.

Facts of the case:- 2. Both the above noted revisions arise from the impugned judgment dated 4.5.2017 in SCC Case No. 09 of 1979. The revision no.171 of 2017 has been filed by the firm and one of its partner, namely, Sri Pradeep Kumar Jain while the Revision No. 172 of 2017 has been filed by the heirs and legal representatives of the partner Sri Pradyumn Kumar Jain under Section 25 of the Provincial Small Cause Courts Act, 1887 (hereinafter referred to as the "Act"). 3. Briefly stated facts of the present case are that the deceased respondent-plaintiff nos .1, 2, 3 and 4 were the owner and landlord of the disputed building situate at Station Road, Moradabad. In a portion of the disputed building, one Sri Sumer Chand (defendant no. 1) was the tenant at a monthly rent of Rs. 625/- in which, he was carrying on business under the name and style of "Pankaj Hotel". Subsequently, the aforesaid defendant no.1 started taking rent receipts in the name of Pankaj Hotel. According to the plaintiffs, the defendant nos. 1 and 2, namely, Sri Sumer Chand and M/s. Pankaj Hotel through Sumer Chand defaulted in payment of rent and made material alterations in the disputed building causing substantial damages to the building and disfigured it without the permission of the plaintiffs-landlords. Consequently, the plaintiffs-landlords issued a notice dated 24.6.1978 to the defendant nos. 1 and 2, namely, Sri Sumer Chand and M/s. Pankaj Hotel through Sri Sumer Chand whereby the tenancy was terminated and the arrears of rent was demanded. The aforesaid notice was served upon the aforesaid defendants on 28.6.1978. Since the defendants had not vacated the disputed portion and as such the plaintiffs filed a JSCC Suit No. 9 of 1979 (Sri Bal Mukund and others v. Sumer Chand Jain and others) on 11.8.1979 for eviction of the tenant from the disputed portion and recovery of arrears of rent and damages of Rs. 8,065.55 and Rs. 7,782.10 respectively. Further prayer was made for decree of expenses and remaining damages. The defendants filed a written statement dated 10.3.1980. The aforesaid suit was dismissed by the court of 12th Additional District Judge, Moradabad by judgment dated 22.2.1991. 4. During the pendency of the aforesaid SCC Suit No. 9 of 1979, the plaintiff, Bal Mukund died. He was succeeded by his wife Vidyawati and four others who were substituted as plaintiff nos. 1/1 to 1/5. Aggrieved with the judgment dated 22.2.1991 in SCC Suit No.9 of 1979, the plaintiffs filed before this Court a Civil Revision No. 930 of 1991 in which, the facts in detail were noted as under; "4. The suit was instituted initially by four plaintiffs, i.e., Bal Mukund, son of Ram Lal, Mahendra Prakash, son of Chandra Prakash, and Om Prakash and Munish Chandra, sons of Lala Murlidhar. During pendency of suit, plaintiff 1, Sri Bal Mukund, died and has been substituted by legal heirs, i.e., plaintiffs 1/1 to 1/5. Defendants comprised of Sumer Chand, Pankaj Hotel through Sumer Chand Jain, Praduman Kumar Jain and Pradeep Kumar Jain. The relief sought in the aforesaid suit is delivery of possession of disputed property after evicting defendants, recovery of arrears of rent, damages pendente lite etc. 5. Plaintiff case is that plaintiffs 2 to 4 are owners and landlords of a Kothi situate at Station Road, Moradabad, details whereof are given at the end of plaintiff. Defendant 1 was let out a part of aforesaid Kothi on a monthly rent of Rs. 625/-. Defendant 1 was running a Hotel business in the

name and style of "Pankaj Hotel" in let out building, hence, rent receipts were issued in the name of "Pankaj Hotel". Defendant 2 illegally and without consent of landlords sublet disputed premises to defendants 3 and 4 and is making illegal profit thereof. Defendants 1 and 2 have also made structural alteration in the disputed premises inasmuch he has removed a wall, closed a passage and latrine and have constructed two big water tanks for washing of clothes as a result whereof southern wall has damaged due to seepage. They have also raised a wall and opened a door therein. On the open land, they have raised a tin-shed. A similar tinshed has also been raised on a open Chabootra. At various places old doors have been closed, floor has been damaged and location of latrines has been changed. Thus, ejectment of defendants was prayed on account of arrears of rent, subletting and structural alteration causing substantial damage and reducing utility and worth of disputed premises. 6. A combined written statement was filed on behalf of defendants 2, 3 and 4 wherein ownership and title of plaintiffs, of the disputed premises was admitted but it is said that defendant 1 has no concern with tenancy of disputed premises. Tenancy is with Pankaj Hotel and defendants 3 and 4. Allegations of subletting and substantial alteration are denied. In additional pleas, it was said that in the building, which was under tenancy of Pankaj Hotel, earlier Kuldeep Singh etc. were tenants who were running a Hotel in the name and style of "Sahgal Hotel". It was let out to them on a monthly rent of Rs. 312.50. An agreement of tenancy was executed between Bal Mukund and Praduman Kumar Jain. Sri Praduman Kumar Jain was doing a Hotel business in the name of "Poonam Hotel" with his brother. The partnership business ceased and "Poonam Hotel" came in the share of brother of Sri Praduman Kumar Jain, hence, Sri Pradumn Kumar Jain was in search of another premises as a result whereof agreement was executed between Bal Mukund and Praduman Kumar Jain for a monthly rent of Rs. 625/- in respect to disputed premises. Sri Sumer Chand Jain is nephew of Praduman Kumar Jain. Hence allotment of disputed land at the request of Praduman Kumar Jain was made in the name of Sumer Chand Jain whereafter Pankaj Hotel was established and business commenced in the partnership of defendants 1, 3 and 4 though actual working partner was Praduman Kumar Jain. When business started, disputed premises required lot of repair and alteration, on which Praduman Kumar Jain spent Rs. 13091.60 which was accepted by plaintiff 1. In respect to aforesaid expenses Rs. 10,000/- were paid vide receipt dated 1.9.1973 by plaintiff 1 to defendant 3 and for rest of amount, it was decided that the same would remain in deposit with landlord. Therefore, since commencement, "Pankaj Hotel" is the tenant which was admitted by plaintiffs and they are estopped from pleading otherwise. All rent receipts were issued in the name of "Pankaj Hotel" by plaintiff 1 while rent was paid actually by Praduman Kumar Jain, defendant 3, and, signatures were made on the counterfoil for payment of rent by defendant 3. Subsequently, there was a dispute amongst partners and Sumer Chand Jain was supported by defendants 2, 3 and 4. Subsequently defendant 1 and plaintiffs colluded as a result whereof plaintiffs gave consent to defendant 1 for including Sri Vipin Chandra in the tenancy. Consequently, Case No. 198 of 1977 under

Section 16 of U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (hereinafter referred to as "Act, 1972") was initiated in respect to disputed building. Therein Sumer Chand and Vipin Jain submitted affidavits supporting plaintiffs and against defendants 2, 3 and 4. However, all the applications and objections of landlord, Sumer Chand Jain and Vipin Chandra were rejected by Rent Control and Eviction Officer (hereinafter referred to as "RCEO") on 03.03.1978 and he admitted M/s Pankaj Hotel as tenant. Defendants 3 and 4 are father and sons. There against Revision No. 63 of 1976 was filed which has also been dismissed and those proceedings will operate as res-judicata. Allegations of material alteration were denied. Defendants paid rent from July" 1977 to February" 1978, but no receipt was issued by plaintiff 1, hence, as per demand of landlord rent from 1.7.1977 to 30.6.1978 has been deposited in the Court vide Tender dated 19.07.1978 in Rent Case No. 160 of 1978 and there is no default in payment of rent. Subsequently, rent upto September" 1979 has been deposited under Section 30 (1) of Act, 1972 and rent from October" 1979 to February, 1980 has been deposited in S.C.C. Court. Sumer Chand Jain has no concern with the disputed premises pursuant to the decision dated 03.03.1978. 7. Admittedly, defendant 1, Sumer chand Jain, neither appeared in the Court below nor contested the suit. 8. Trial Court formulated 12 issues as under: (1) Whether the defendant no. 1 had taken the premises in question on a rent of Rs. 625/- per month and if so, since when the rent has not been paid to the plaintiffs? (2) Whether the defendant no. 1 had sublet a part of the rented portion to defendants no. 3 and 4 without the written permission of the plaintiffs and their predecessor Sri Bal Mukand? If so to what effect? (3) Whether the defendants no. 1 and 2 have made the material alterations in the demised Kothi as alleged in para 5 of the plaint? If so, to what effect? (4) Whether the so-called unauthorised changes made by defendants no. 1 and 2 in the demised premises have reduced the value of the premises in question? (5) Whether the tenancy of the defendant no. 1 validly terminated by the notice relied upon by the plaintiffs? (6) Whether Sri Praduman Kumar Jain had made any repairs in the disputed premises with the permission of Sri Bal Mukand (deceased plaintiff no. 1)? (7) Whether Sri Sumer Chand had any agreement with Sri Bal Mukuand (deceased plaintiff)? If so, to what effect? (8) Whether the suit is barred by principles of res-judicata as pleaded in para 11 of the additional written statement? (9) Whether the suit is barred by estoppel and acquiescence? (10) Whether any sum of Rs. 7500/- was paid to Sri Bal Mukand as pleaded in para 19 of the additional pleas of the written statement? (11) Whether any amount of arrears of rent is lying in deposit under Section 30 of U.P. Act No. 13 of 1972? (12) To what relief, if any, are the plaintiffs entitled and from which of the defendants? 9. Plaintiffs filed nine papers as documentary evidence and examined Rakesh Chand as PW-1 to support their case. Per Contra, defendants 2 to 4 filed 72 papers as documentary evidence and examined Praduman Kumar Jain as DW-1. 10. At the time of hearing of matter, with the consent of parties, Issues 7 and 10 were deleted and this fact is mentioned in the impugned judgment. Issue 11, with respect to deposit of rent under Section 30 of Act, 1972, was answered in favour of

defendants 2 to 4. 11. Issues 2, 8 and 9 were taken together since they pertain to question of subletting, estoppel and acquiescence. On these points, Trial Court recorded finding that admittedly disputed premises earlier was in the tenancy of Kuldeep Sahgal who was running a Hotel, i.e., "Sahgal Hotel" therein. Subsequently, disputed premises was allotted by RCEO, Moradabad to defendant 1 on 07.05.1973. This fact was also admitted by defendants 2 to 4. However, defendants 3 and 4 sought to explain this fact that Sumer Chand Jain was running business of "Pankaj Hotel" in the partnership of defendants 3 and 4 and subsequently partnership was dissolved and reconstituted by separating Sumer Chand Jain, defendant 1, from the said business. In this regard, a dissolution-deed dated 08.05.1977 (Exhibit-A/115) was placed on record. It was mentioned therein that Sumer Chand Jain ran Hotel business in partnership for about four years. The business was left by Sumer Chand Jain in the name of defendants 2 to 4. All these facts were in the knowledge of plaintiff 1 and fortified by RCEO's order dated 03.03.1978. The Court below also relied on the application filed before RCEO alleging that disputed accommodation was owned by Bal Mukund, plaintiff 1 and allotted in the name of Sumer Chand Jain on 07.05.1973. Sri Sumer Chand Jain entered into a partnership on 26.06.1973 to run Hotel business in the name and style of "Pankaj Hotel" in the disputed premises. Pankaj Hotel was a distinct entity and recognized by landlord since August 1973. All rent receipts were in the name of Pankaj Hotel. Sumer Chand Jain moved an application dated 12.05.1977 before RCEO that he may be allowed to induct Vipin Chandra Dhawan as a partner in the business but when opposed he moved another application on 18.07.1977 that his earlier application may be rejected as not pressed. He further stated that Pankaj Hotel, tenant in the disputed accommodation, is now the proprietorship concern of defendant 3, Praduman Kumar Jain, and, if necessary, allotment may be made in favour of defendant 4, Pradeep Kumar Jain and his father Praduman Kumar Jain. On the said application RCEO deputed Rent Control Inspector who submitted report and thereafter RCEO rejected application of plaintiff 1 and defendant 1 holding that Pradeep Kumar Jain is lawful occupant of accommodation in dispute since he entered into partnership with Sumer Chand Jain on 26.10.1973. The partnership was determined on 31.05.1977 when Sumer Chand Jain withdrew himself leaving business of Pankaj Hotel in the sole proprietorship of Pradeep Kumar Jain. Trial Court has also recorded a finding that all the rent receipts were issued in the name of Pankaj Hotel. It has also mentioned that in the rent receipts, in the column of tenant, it has been described as Pankaj Hotel through Praduman Kumar Jain, Partner, which shows that landlord admitted "Pankaj Hotel" as tenant and defendant 3 Praduman Kumar Jain as partner. There was no other tenancy in the name of Pankaj Hotel and Praduman Kuamr Jain of which Bal Mukund was the owner, hence, the aforesaid rent receipts were issued in respect to disputed premises. The Court below, therefore, recorded a conclusive finding that building was let out in the tenancy of "Pankaj Hotel" to be run in partnership of Sumer Chand Jain and Praduman Kumar Jain and this fact was in the knowledge of owner-landlord, plaintiff 1 since 1973. Besides, plaintiffs also failed to adduce

any evidence to show that there was any subletting by defendant 1 to defendants 3 and 4. It is also held that since this fact was already in the knowledge of plaintiff 1 and was also determined by RCEO, therefore, plaintiffs were estopped from raising the same issue again. Issues 2, 8 and 9 were answered against plaintiffs and in favour of defendants. 12. Issue 5, thereafter, was decided against plaintiffs. 13. Issues 3 and 4 related to question of "material alternation" having effect of reducing or diminishing the value of disputed property. Here Court below observed that since it has already held that defendant 1 is not the tenant of disputed accommodation and has not appeared to contest the suit, since Pankaj Hotel is tenant through its Proprietor, defendant 3, therefore, allegations levelled against defendants 1 and 2 cannot result in making defendants 3 and 4 responsible for same. Defendant 1 was not contesting the matter and even if it is held that defendants made unauthorized construction, no relief can be granted against defendant 1 since he is no more tenant, in the circumstances, both these issues were also answered against plaintiffs. 14. Issue 6 that defendant 3 has made repair in the disputed premises without permission has also been answered against plaintiffs since it has not given any notice to defendants 3 and 4 terminating their tenancy. Consequently, suit has been dismissed. 15. Counsel for plaintiff-revisionist contended before this Court, while assailing the impugned judgment dated 22.02.1991, that there was a clear case of subletting, inasmuch, admittedly, premises in question was let out to Sri Sumer Chand Jain only, and RCEO also allotted the disputed premises to Sumer Chand Jain. However, he sublet premises to Hotel run in partnership of defendants 3 and 4 without consent of landlord, hence the case of subletting was proved, but Court below, in taking an otherwise view, has erred in law. " 5. The aforesaid Civil Revision No. 930 of 1991 was allowed by this Court by judgment dated 3.7.2015 by setting aside the judgment dated 22.2.1991 and the decree dated 6.3.1991 passed by the Sri Dharam Singh, 12th Additional District Judge, Moradabad in SCC Suit No. 9 of 1979 and the matter was remanded to the court below to examine the Issue Nos. 3 and 4 afresh in the light of the observations made. The Issue Nos. 3 and 4 is reproduced below; "Issue No. 3- Whether the defendant nos. 1 and 2 have made the material alterations in the demised kothi as alleged in para 5 of the plaint? If so, to what effect? Issue No. 4 - Whether the so called unauthorized changes made by the defendant nos. 1 and 2 in the demised premises have reduced the value of the premises in question?" 6. The findings recorded in the judgment dated 22.2.1991 on the afore quoted Issue nos. 3 and 4, were set aside by this Court by aforesaid judgment dated 3.7.2015 in Civil Revision No. 930 of 1991 as under; "19. I find substance in the submissions. As already said, defendant 1 was allotted disputed premises by RCEO and tenancy commenced in his name. He inducted defendants 3 and 4 to run a partnership Hotel business in the disputed premises. Since knowledge of landlord to this partnership business has been found proved, though it may not be a case of subletting, but the co-tenancy enjoyed by defendant 3 and 4 was along with defendant 1. All three were joint and co-tenants. Hence for any act or omission the responsibility was also joint and

several. Any act or omission referable to one of the partner or one of the co-tenant would cause same consequence in respect to all other co-tenants. If one or more partner subsequently withdrew, for the acts and omissions of such partner, when partnership was subsisting, other partners would be liable and bound to face same consequence, as would have been faced by outgoing partner. Mere fact that partner, who has allegedly did something, has separated would not absolve other partners from liability they had as co-tenant with outgoing partner. Thus the mere fact that defendant 1 has not contested the matter or withdrawn from partnership would not exempt defendants 3 and 4 from any liability accrued when partnership was continuing, if the allegations of material alteration resulting in diminishing the value of property is/are found correct. The fact that partner to whom allotment was made by RCEO has ceased to be tenant and tenancy stood devolved upon remaining tenants would make no difference for the plaintiffs-landlords for the reason that responsibility is joint and several amongst the partners. Therefore, it was necessary for Trial Court to decide whether there was any material or structural alteration which has the effect of diminishing value of property and what was the period during which this structural alteration was made. If period was when defendants 1, 3 and 4 were enjoying tenancy in partnership, all the partners are bound to face the consequences as provided in law. Mere fact that one or more partner has separated or withdrawn subsequently would make no difference and absolve remaining partners from their liability and consequences. The view, therefore, taken by Court below in respect to Issues 3 and 4, in my view, can not sustain. These issues have not been examined and dealt with properly but in a casual fashion. Both these issues have been answered only on the ground that defendant 1 has ceased to be a partner and has not contested the matter. In my view matter requires remand to Court below to look into and record its finding in respect to Issues 3 and 4 in the light of observations made above. 20. In the result, revision is allowed. Impugned judgment dated 22.02.1991 and decree dated 06.03.1991 respectively passed by Sri Dharm Singh, 12th Additional District Judge, Moradabad are hereby set aside. Matter is remanded to Court below to examine Issues 3 and 4 afresh in the light of observations made above and in accordance with law. 21. Since it is an old matter, Court below shall decide the matter expeditiously and in any case within six months from the date of production of a certified copy of this judgment." (Emphasis supplied by me) 7. Consequent to the order of remand as aforesaid, proceedings were restarted before the trial court on issue nos. 3 and 4. During the pendency of the proceedings, an application was moved on behalf of the revisionists-defendants to file an additional written statement consequent to the substitution of the heirs of Pradyumn Kumar Jain on the ground that due to induction of the heirs of the deceased Pradyumn Kumar Jain, the constitution of the alleged partnership firm M/s. Pankaj Hotel had changed and therefore, additional written statement is necessitated. It is important to note that the aforesaid Pradyumn Kumar Jain died during the pendency of the aforesaid Civil Revision No. 930 of 1991 and his heirs were substituted. The aforesaid application for filing additional written statement

was rejected by the court below by order dated 16.11.2016 which was challenged by the revisionists-defendants by filing a petition being Matters under Article 227 No. 10223 of 2016 (M/s. Pankaj Hotel and another v. Bal Mukund (since deceased) and 17 others), which was dismissed by this Court, as under; "The aforesaid submission cannot be countenanced because the question of subletting has not been reopened for adjudication and the matter has been remitted to the court below only for considering issues 3 and 4 which related to material alteration carried out in the demised premises as alleged in the plaint. In the order of remand, this Court had specifically observed that even if the principal tenant Sumer Chandra had withdrawn himself from tenancy but if the material alterations were made at the time when he was a partner with the other tenant, then his act would bind the other tenant and therefore what was crucial to be decided was whether the material alterations as alleged were made or not and if so made were they made at the time when the other partners who were defendants in the suit had been inducted in partnership or not. As the aforesaid questions required no further pleadings and the question had to be decided on the basis of material already on record, this Court finds no jurisdictional error in the order passed by the court below refusing the petitioners' request to file additional written statement because the heirs of deceased Paduman Kumar Jain had been substituted, particularly, when this Court while passing the order of remand had not granted any such liberty and the substitution was carried out under the orders of this Court in Civil Revision No. 930 of 1991." (Emphasis supplied by me) 8. Thereafter, the court of Additional District Judge, Court No. 12, Moradabad which originally passed the judgment dated 22.2.1991 (which was set aside by this Court in Civil Revision No. 930 of 1991 and the matter was remanded) allowed the SCC Case No. 09 of 1979 by judgment dated 4.5.2017 and decree dated 6.5.2017. Aggrieved with this judgment and decree, the revisionist-defendants/tenants have filed the present revision under Section 25 of the Act. Submission on behalf of revisionist-defendant/tenant:- 9. Sri Rahul Chaudhary, learned counsel for the revisionists-defendants submits as under; I- The impugned judgment and decree are wholly without jurisdiction in view of the amended provisions of Section 15 of the Provincial Small Cause Courts Act, 1887, whereby jurisdiction to entertain a suit up to valuation of Rs. 1,00,000/- vests only in the Court of Civil Judge, Senior Division of the District. Legal position in this regard has been well clarified by the judgment of this Court in the case of Shobhit Nigam v. Smt. Batulan and another, 2017 (1) JCLR 168 (Allahabad) and the judgment dated 3.10.2016 in SCC Revision No.306 of 2016 (Sadik Sheikh v. Mohd. Sarfraz). II-Since, the valuation of the suit is Rs. 23,346.65 and as such in view of the provisions of Section 15 of the Act, the jurisdiction vests only in Civil Judge, Senior Division but the impugned judgment and decree have been passed by the Additional District Judge which is without jurisdiction. Thus, the impugned judgment is nullity in view of the law laid down by the Hon''ble Supreme Court in the case of Chiranjilal Shreelal Goenka (deceased) through LRs v. Jasjit Singh and others, (1993) 2 BLJR 1193 (para 16 and 17), Kiran Singh and others v. Chaman Paswan and others, AIR 1954 SC 340

(para 6 and 14) and the judgment of this Court in the case of Vandana Travels and Tours v. Commr. of C. Ex. and Service Tax (Appeals), 2015 (2) ADJ 149 and in the case of Shobran Singh Sharma v. 4th Additional District & Sessions Judge, Aligarh and others, 1993 AWC 1796. III-This Court by order dated 3.7.2015 passed in Civil Revision No. 930 of 1991 [Smt. Vidyawati (since deceased and substituted by heirs) v. Sumer Chanda], remanded the matter and directed the concerned Court below to decide issue nos. 3 and 4 afresh in the light of the observations made. However, the impugned judgment has been passed by the Court of Additional District Judge without recording any finding about the period of alteration or structural changes in the building. IV-The Court below has not taken into consideration the earlier commissioner report dated 17.2.1982 and merely relied upon the report dated 23.4.1983. Submissions on behalf of the respondents-plaintiffs/landlord- 10. Sri P.K. Jain, learned Senior Advocate submits as under; I-The remand was made to a specific court by the High Court with specific directions and pursuant thereto the Court below passed the impugned judgment and decree complying with the directions of this Court. Thus, the question of lack of jurisdiction in passing the impugned judgment and decree, does not arise at all. The learned Additional District Judge rightly decided the case pursuant to the remand directions. The legal position in this regard is settled in view of the law laid down by this Court in the case of M/s. Tek Chand & Co., Meerut and others v. VIIIth Additional District Judge, Meerut and others, 1992 (2) ARC 386 (para 4), Ramlal Yadav and another v. Kulwant Rai Puri and others, 1998 (1) ARC 7 (para 10) and the law laid down by Hon'ble Supreme Court in the case of Indramani Kirtipal v. Union of India and others, 1996 (2) SCC 437 (para 2), R.S.D.V. Finance Co. Pvt. Ltd. v. Shree Vallabh Glass Works Ltd., 1993 (2) SCC 130 (para 8) and Harshad Chiman Lal Modi v. DLF Universal and another, 2005 (7) SCC 791 (para 27). II-After the judgment dated 3.7.2015 was passed by this Court remanding the matter, the proceedings started but in the meantime, the provisions of Section 15 of the Act was amended. A letter dated 16.9.2016 was written by the Additional District Judge to the District Judge requesting to transfer the case to the Civil Judge, Senior Division. When the case was transferred to the Civil Judge, Senior Division/Judge Small Cause Court, Moradabad, it was brought to the notice of the District Judge, Moradabad that there is a specific direction of the High Court in the judgment dated 3.7.2015 for deciding the case by the Court of Additional District Judge. Thereafter, the District Judge passed an order dated 6.10.2016 sending the case to the Additional District Judge, Court No. 12. III-After the matter was remitted by this Court vide judgment and order dated 3.7.2015, the substitution applications were filed by legal heirs and representatives of the respondent-plaintiff no.1 to substitute the legal heirs and representatives of the plaintiff no.1 i.e. plaintiff nos. 1/1 to 1/5 . No objection was raised with respect to the jurisdiction. Thereafter, the heirs of revisionist-defendant no. 2, namely, Smt. Chandrawati Jain and Sri Pankaj Kumar Jain filed an application for filing additional written statement which was rejected by the Court of Additional District Judge, Court No. 12 by order dated 16.11.2016, against which the defendants-revisionists filed a

petition Under Article 227 No. 10223 of 2016 (M/s. Pankaj Hotel and another v. Bal Mukund (since deceased) and 17 others), which was dismissed by this Court by order dated 2.2.2017 holding that there is no jurisdictional error in the order dated 16.11.2016 refusing the petitioner's request to file additional written statement. Under the circumstances, the question of jurisdiction can not be allowed to be raised by the defendant-revisionist at this stage in the present proceedings inasmuch as the judgment of this Court dated 3.7.2015 in Civil Revision No.930 of 1991 and judgment dated 2.2.2017 in Matters under Article 227 No. 10223 of 2016 have attained finality. IV-The changes made by the defendants-revisionists in the building in question, are structural changes in the building. Finding of facts in this regard, has been recorded by the Court below after due consideration to the evidences or record. It was admitted case of the defendants-revisionists that the material changes made in the building, were without permission of the plaintiff-landlord. Detail finding of fact has been recorded by the Court below on the issue no. 3 and 4 which can not be interfered with in revisional jurisdiction unless the findings are perverse. The facts of the case and the submissions made by the learned counsel for the defendant revisionist would show that there is no allegation of perversity in the findings of fact recorded by the Court below. 11. I have carefully considered the submissions of the learned counsels for the parties and perused the record before him. Discussion and findings :- 12. The submissions made by the learned counsels for the parties as noted above give rise to the following questions; Question No.1- Whether the impugned judgment dated 4.5.2017 passed by the Additional District Judge, Court No. 12, Moradabad in SCC Case No. 09 of 1979 pursuant to the order of remand passed by this Court dated 3.7.2015 in Civil Revision No. 930 of 1991, lacks pecuniary jurisdiction in view of the amended provisions of Section 15 of the Act whereby jurisdiction of Civil Judge (S.D.) of the District to entertain a suit has been enhanced up to suit valuation of Rs. 1,00,000/- and as such only Civil Judge (S.D.) of the District was having jurisdiction to decide the aforesaid SCC case having valuation of Rs. 23324.65? Question No.2- Whether the impugned judgment is valid and does not suffer any illegality or perversity? Question no.1: 13. Before I proceed to examine this question, it would be helpful to reproduce the relevant provisions. By Section 6 of the U.P. Act No.17 of 1991, for sub-Section (2) and (3) of Section 15 of the Provincial Small Cause Courts Act, 1887, the following sub-Section was substituted with effect from 15.1.1991 as under :- "(2) Subject to the exceptions specified in that Schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five thousand rupees shall be cognizable by a Court of Small Causes. Provided that in relation to suits by the lessor for the eviction of a lessee from a building after the determination of his lease or for recovery from him of rent in respect of the period of occupation thereof during the continuance of the lease, or of compensation for use and occupation thereof after the determination of the lease, the reference in this sub-section to five thousand rupees shall be construed as a reference to twenty-five thousand rupees. Explanation. - For the

purposes of this sub-section, the expression "building" has the same meaning as in Art. (4) in the Second Schedule." 14. The aforequoted provisions of Section 15 (2) of the Act as applicable in Uttar Pradesh was amended by Section 4 of the U.P. Act No. 14 of 2015 as under; "4. Amendment of Section 15 of Act No. IX of 1887.- In Section 15 of the Provincial Small Cause Courts Act, 1887,- (a) in sub-section (2) for the words "five thousands rupees" the words "twenty five thousand rupees" shall be substituted; (b) in the proviso to sub-section (2) for the words "twenty five thousand rupees" the words "one lakh rupees" shall be substituted." 15. The statement of objects and reasons of the amendment (2016 Lucknow Law Times, part IV, page 2) is reproduced below; "Prefatory Note-Statement of Objects and Reasons.- Whereas the value of the subject matters brought to the courts has increased substantially, the pecuniary jurisdiction of the Civil Courts as well as those of Small Cause Courts in the State of Uttar Pradesh requires to be raised for institution of Civil Suits and appeals. It has, therefore become necessary to amend the Bengal, Agra and Assam Civil Courts Act, 1887 and the Provincial Small Cause Courts Act, 1887 to increase the pecuniary jurisdiction of Civil Courts and those of Small Cause Courts in the State of Uttar Pradesh for securing better administration of justice. The Uttar Pradesh Civil Laws (Amendment) Bill, 2015 is introduced accordingly." (emphasis supplied by me) 16. Perusal of the objects and reasons as aforequoted shows that the amendment in Section 15(2) of the Act was initiated on account of the fact that the value of the subject matters brought to the courts has been increased substantially and as such the pecuniary jurisdiction was required to be raised for institution of civil suits. Thus, for institution of civil suits and appeals, the words "five thousand rupees" in sub-Section (2) of Section 15 of the Act has been substituted by the words "twenty five thousand rupees" and likewise in the proviso to sub-Section (2) for the words "twenty five thousand rupees", the words "one lakh rupees" has been substituted. 17. The amendment made in Section 15 of the Act made by the U.P. Act No. 14 of 2015 as aforequoted, do not specify whether the cases pending before the court by way of remand by order of a higher court with specific directions or pending otherwise, shall be heard by the same court or by the court having pecuniary jurisdiction as per amended provisions. Thus, ambiguity in the amended provisions requires the help of the statement of objects and reasons for interpretation of the amended provisions. Objects And Reasons & Rules of Interpretation : 18. It is well settled that the background and circumstances in which the Act was passed is permissible for preventing the mischief, the legislature had in mind and remedy it wanted to provide for preventing that mischief. Reference to objects and reasons is permissible for understanding the background, antecedents, state of affairs and surrounding circumstances in relation to the statute and the evil which the statute sought to remedy. Reference in regard may be had to the judgments of Hon'ble Supreme Court in the case of Express Newspaper (Private) Ltd. And another v. The Union of India and others, AIR 1958 SC 578 (para 173); M/s. Sanghvi Jeevraj Ghewar Chand and others v. Secretary, Madras Chillies, Grains and Kirana Merchants Workers Union and another, AIR 1969 SC 530 (para 2); D.

Ramraju v. State of A.P., AIR 1972 SC 828 (para 4); The State of M.P. And another v. D.N.C.P. Hill Colliery Co., AIR 1972 SC 614 (para 26); Workmen of F.T. & R. CO. v. The Management, AIR 1973 SC 1227 (para 29); Hira Lal Rattan Lal etc v. State of U.P. And another etc., AIR 1973 SC 1034 (para 10); Organo Chemical Industries and another v. Union of India and others, AIR 1979 SC 1803 (para 48); Narain Khamman v. Parduman Kumar Jain, AIR 1985 SC 4 (para 12); The Secretary, Regional Transport Authority, Bangalore and another v. D.P. Sharma and another, AIR 1989 SC 509 (para 6); State of H.P. v. Kailash Chand Mahajan, AIR 1992 SC 1277 (para 77); State of Gujrat v. Mirzapur Moti Kureshi Kassab Jamat, JT 2005 (12) SC 580 (76).

19. The golden rule of interpretation is that words of a statute must, prima facie, be given their ordinary meaning when the language or phraseology used by the legislature is precise and plain. This, by itself proclaims the intention of the legislature in unequivocal terms, the same must be given effect to and it is unnecessary to fall upon the legislative history, Statement of Objects and Reasons, framework of the statute, etc. Such an exercise need be carried out only when the words are unintelligible, ambiguous or vague. Reference in this regard may be had to the judgments of Hon"ble Supreme Court in the case of Chief Justice of Andhra Pradesh v. L.V.A. Dixitulu 1979 2 SCC 34, Kehar Singh v. State (Delhi Admn.), 1988 3 SCC 609, District Mining Officer v. TISCO, 2001 7 SCC 358, Gurudevdatla VKSSS Maryadit v. State of Maharashtra, 2001 4 SCC 534, State of H.P. v. Pawan Kumar 2005 4 SCC 350 and State of Rajasthan v. Baburam, 2007 6 SCC 55 and Prabhudas Damodar Kotecha and others v. Manhabala Jeram Damodar and another, (2012) 15 SCC 358 (para 31 and 32).

20. It is trite law that the Statement of Objects and Reasons is a key to unlock the mind of the legislature in relation to substantive provisions of statutes and it is also well settled that a statute is best interpreted when we know why it was enacted. The objects and reasons as such may not be admissible as an aid of construction to the statute but it can be referred for the limited purpose of ascertaining conditions prevailing at the time of the introduction of the Bill and the extent and urgency of the evil which was sought to be remedied. Reference in regard may be had to the judgments of Hon"ble Supreme in the case of M.K. Rangnathan v. Govt. of Madras, AIR 1955 SC 604, Bhaiji v. SDO, 2003 1 SCC 692 (para 11) and Prabhudas Damodar Kotecha (Supra).

21. The Statement of Objects and Reasons of amendment of Section 15 of the Act by U.P. Act No.14 of 2015 shows that the value of subject matters brought to the courts has increased substantially and as such the pecuniary jurisdiction of the Civil Courts as well as those of Small Cause Courts in the State of Uttar Pradesh was required to be raised for institution of Civil Suits and appeals. Thus, the amendment itself appears to be prospective in nature and would apply only to suits and appeals being instituted after the amendment. In the case of Sanjay Sharma Alias Pintu v. Anil Dua Alias Titu (SCC Revision Defective No. 76 of 2017, decided on 13.07.2017) this Court held that Section 15 C.P.C. provides that every suit shall be instituted in the Court of the lowest grade competent to try it. The word "competent" used in this Section has reference to the jurisdiction of a Court. Jurisdiction means extent of authority of a Court to

administer justice not only with reference to the subject matter of the suit but also to the pecuniary and territorial jurisdiction. A Court cannot try a suit of higher valuation than his pecuniary jurisdiction. However, Section 15 C.P.C. enacts a rule of procedure with an object to avoid overcrowding in the Court of higher grade. It does not oust the jurisdiction of Court of higher grade. The competency of the Court of higher grade to try a suit, below the valuation of his pecuniary jurisdiction has not been affected either by Section 15 C.P.C. or by any other provision as held by *Ratan Sen v. Bhau*, AIR 1944 Allahabad 1, *Ramamirtham v. Ram Film Service* (1951) ILR Mad. 93 (FB) and *Venkateshwarlu v. Satyanarayana*, AIR 1957 Andhra Pradesh 49 (FB).

Section 21 C.P.C.- Objection to the Pecuniary Jurisdiction : 22. Facts of the present case shows that a specific direction by remand was issued by this Court in Civil Revision No. 930 of 1991 decided on 3.7.2015 directing the court below to examine the Issue Nos. 3 and 4 afresh in the light of observations made. The amendment in Section 15 of the Act was made by the U.P. Act No. 14 of 2015 which received the assent of the President of India on 19.11.2015 and it was published in the U.P. Gazette Extraordinary, Part 1, Section (Ka) dated 7.12.2015 but the revisionists-defendants have not raised any objection regarding pecuniary jurisdiction of the court below. Their application for leave for filing additional written statement was rejected by the court below by the order dated 16.11.2016 against which, a petition being matters under Article 227 No.10023 of 2016 was filed by the petitioner-defendant which was dismissed by this Court by order dated 2.2.2017. For the first time in this revision, an objection to the pecuniary jurisdiction has been taken on account of the aforesaid amendment which was made much prior to the passing of the impugned judgment dated 4.5.2017 by the court below.

23. Section 21 of the Code of Civil Procedure provides that no objection as to the competence of a court with reference to the pecuniary limits of its jurisdiction shall be allowed by Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity, and, in all cases where issues are settled, at or before such settlement, and unless there has been a consequent failure of justice. Learned counsel for the revisionist-defendant could not point out any material to show consequent failure of justice in terms of sub-section (2) of Section 21 of the Act.

24. Section 17 of the Act provides for application of the Code of Civil Procedure in a Court of Small Causes as under; "17. Application of the Code of Civil Procedure. - (1) The procedure prescribed in the Code of Civil Procedure, 1908 (5 of 1908), shall, save in so far as is otherwise provided by that Code or by this Act, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits: Provided that an applicant for an order to set aside a decree passed ex parte or for a review of judgement shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give [such security for the performance of the decree or compliance with the judgment as the Court may, on a previous application made by him in this behalf, have directed. (2) Where a person has become liable as surety under the proviso to subsection (1), the

security may be realized in manner provided by section [145] of the Code of Civil Procedure, [1908 (5 of 1908)]" 25. It may be noted that Section 21 of the Act provides that no objection as to place of suing shall be allowed by Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity, and, in all cases where issues are settled, at or before such settlement, and unless there has been a consequent failure of justice. Lack of Inherent Jurisdiction And lack of Pecuniary Jurisdiction : 26. The Code of Civil Procedure has made a distinction between law of inherent jurisdiction and objection to territorial jurisdiction and pecuniary jurisdiction. Whereas an inherent lack of jurisdiction may make the decree passed by that court to be one without jurisdiction or void in law, a decree passed by a court lacking territorial jurisdiction or pecuniary jurisdiction does not automatically become void. At best, it is voidable in the sense that it can be challenged in appeal therefrom provided the conditions of Section 21 of the Code of Civil Procedure are satisfied. No objection to the pecuniary jurisdiction of the court could be raised successfully in an appeal against the decree unless it had been raised at the earliest opportunity and failure of justice or prejudice was shown. This principle finds support from the law laid down by Hon"ble Supreme in the case of Subhash Mahadevasa Habib v. Nemasa Ambasa Dharamadas, (2007) 13 SCC 650 (para 33, 34, 40 and 41) as under; "33. What is relevant in this context is the legal effect of the so-called finding in O.S. No. 4 of 1972 that the decree in O.S. No. 61 of 1971 was passed by a court which had no pecuniary jurisdiction to pass that decree. The Code of Civil Procedure has made a distinction between lack of inherent jurisdiction and objection to territorial jurisdiction and pecuniary jurisdiction. Whereas, an inherent lack of jurisdiction may make a decree passed by that court one without jurisdiction or void in law, a decree passed by a court lacking territorial jurisdiction or pecuniary jurisdiction does not automatically become void. At best it is voidable in the sense that it could be challenged in appeal therefrom provided the conditions of Section 21 of the Code of Civil Procedure are satisfied. 34. It may be noted that Section 21 provided that no objection as to place the suing can be allowed by even an appellate or revisional court unless such objection was taken in the court of first instance at the earliest possible opportunity and unless there has been a consequent failure of justice. In 1976, the existing Section was numbered as Sub-Section (1) and Sub-Section (2) was added relating to pecuniary jurisdiction by providing that no objection as to competence of a court with reference to the pecuniary limits of its jurisdiction shall be allowed by any appellate or revisional court unless such objection had been taken in the first instance at the earliest possible opportunity and unless there had been a consequent failure of justice. Section 21A also was introduced in 1976 with effect from 1.2.1977 creating a bar to the institution of any suit challenging the validity of a decree passed in a former suit between the same parties on any ground based on an objection as to the place of suing. The amendment by Act 104 of 1976 came into force only on 1.2.1977 when O.S. No. 4 of 1972 was pending. By virtue of Section 97(1)(c) of the Amendment Act, 1976, the said suit had to be tried and disposed of as if Section 21 of the Code

had not been amended by adding Sub-Section (2) thereof. of course, by virtue of Section 97(3) if Section 21A had to be applied, if it has application. But then, Section 21A on its wording covers only what it calls a defect as to place of suing. 40. The entire question was considered by this Court in *Kiran Singh (supra)*. Since in the present case, the objection is based on the valuation of the suit or the pecuniary jurisdiction, we think it proper to refer to that part of the judgment dealing with Section 11 of the Suits Valuation Act. Their Lordships held: It provides that objections to the jurisdiction of a Court based on overvaluation or under-valuation shall not be entertained by an appellate Court except in the manner and to the extent mentioned in the section. It is a self-contained provision complete in itself, and no objection to jurisdiction based on over-valuation or under-valuation can be raised otherwise than in accordance with it. With reference to objections relating to territorial jurisdiction, Section 21 of the Civil Procedure Code enacts that no objection to the place of suing should be allowed by an appellate or revisional Court, unless there was a consequent failure of justice. It is the same principle that has been adopted in Section 11 of the Suits Valuation Act with reference to pecuniary jurisdiction. The policy underlying Sections 21 and 99 of the Civil Procedure Code and Section 11 of the Suits Valuation Act is the same, namely, that when a case had been tried by a Court on the merits and judgment rendered, it should not be liable to be reversed purely on technical grounds, unless it had resulted in failure of justice, and the policy of the Legislature has been to treat objections to jurisdiction both territorial and pecuniary as technical and not open to consideration by an appellate Court, unless there has been a prejudice on the merits. In *Seth Hiralal Patni v. Sri Kali Nath (supra)*, it was held that : It is well settled that the objection as to local jurisdiction of a court does not stand on the same footing as an objection to the competence of a court to try a case. Competence of a court to try a case goes to the very root of the jurisdiction, and where it is lacking, it is a case of inherent lack of jurisdiction. On the other hand, an objection as to the local jurisdiction of a court can be waived and this principle has been given a statutory recognition by enactments like Section 21 of the Code of Civil Procedure. In *Bahrein Petroleum Co. Ltd. v. P.J. Pappu and Anr. (supra)*, it was held Section 21 is a statutory recognition of the principle that the defect as to the place of suing under Sections 15 to 20 of the Code may be waived and that even independently of Section 21, a defendant may waive the objection and may be subsequently precluded from taking it. 41. In the light of the above, it is clear that no objection to the pecuniary jurisdiction of the court which tried O.S. No. 61 of 1971 could be raised successfully even in an appeal against that very decree unless it had been raised at the earliest opportunity and a failure of justice or prejudice was shown. Obviously therefore, it could not be collaterally challenged. That too not by the plaintiffs therein, but by a defendant whose alienation was unsuccessfully challenged by the plaintiffs in that suit." (Emphasis supplied by me) Categories of Jurisdiction : 27. Similar view has been taken by Hon'ble Supreme Court in the case of *Hashad Chiman Lal Midi v. DLF Universal Lmt., (2005) 7 SCC 791 (para 27)* and it was held that the jurisdiction of a court

may be classified into several categories. The important categories are :- (I) Territorial or local jurisdiction; (II) Pecuniary jurisdiction; and (III) Jurisdiction over the subject matters. So far as pecuniary jurisdiction and territorial jurisdiction are concerned, objection has to be taken at the earliest opportunity and in any case at or before settlement of issue. The law is well settled on the point that if such objection is not taken at the earliest, it cannot be taken at a subsequent stage. Jurisdiction as to subject matter, however, is totally distinct and stands on different footing where the court has no jurisdiction over the said matter of the suit by reason of any limitation imposed by statute, charter or commission, it cannot take the case or matter . 28. The facts of the present case shows that the petitioner-defendant that after amendment of Section 15 of the Act by U.P. Act No. 14 of 2015 has not taken any objection on pecuniary jurisdiction before the Additional District Judge, Court No. 12, Moradabad. 29. In the present set of facts, it is undisputed that initially SCC Suit No. 09 of 1979 was dismissed by judgment dated 22.9.1991 which was challenged by the respondent-plaintiffs by filing a Civil Revision No. 930 of 1991 which was allowed by this Court by judgment dated 03.07.2015 and the matter was remanded to the court below to examine the Issue Nos. 3 and 4 afresh in the light of the observations made. Pursuant to the said remand direction, the impugned judgment dated 4.5.2017 in SCC Suit No. 09 of 1979 has been passed. It is also important note that the prayer of the revisionist-defendants to file an additional written statement in the SCC Suit No.9 of 1979 was rejected by the court below by order dated 16.11.2016, which was challenged by the revisionist-defendants by in Matters under Article 227 No. 10223 of 2016 (M/s Pankaj Hotel and another v. Bal Mukund (since deceased) and 17 others). It was dismissed by this Court observing that the matter has been remanded to the court below only for considering the Issue Nos. 3 and 4 which related to material alteration carried out in the demised premises as alleged in the plaint which requires no further pleadings and the question had to be decided on the basis of material already on record. This Court found no jurisdictional error in the order passed by the court below refusing the petitioner's request to file additional written statement. The aforementioned orders of this Court dated 3.7.2015 in Civil Revision No. 930 of 1991 and the order dated 16.11.2016 in Matters under Article 227 No. 10223 of 2016, have attained finality. In the aforesaid Civil Revision No. 930 of 1991 decided on 3.7.2015, this Court, vide para 21 of the judgment, specifically directed the court below to decide the matter expeditiously and in any case within six months from the date of production of a certified copy of the order. Under the circumstances, the submission of the learned counsel for the revisionist-defendants cannot be accepted that the court below i.e. the Additional District Judge, Court No. 12, Moradabad which had earlier passed the judgment dated 22.2.1991 in SCC Suit No. 9 of 1979 ceased to have jurisdiction on account of provisions of Section 15 of the Act as amended by U.P. Act No. 14 of 2015 and that the matter should be transferred to the court of Civil Judge who was exercising the power of Judge Small Cause to the extent of valuation of Rs. 25,000/-. Thus, the impugned judgment dated 4.5.2017 passed by the Additional District Judge, Court No. 12,

Moradabad cannot be said to be without jurisdiction. 30. Similar controversy came before a Bench of this Court in the case of *M/s. Tek Chand & Co. Meerut and others v. VIIIth Additional District Judge, Meerut and others*, 1992 (2) ARC 386 (para 4) in which this Court held as under ; "4. I have heard the learned counsel for the parties. The contention of the Counsel for the petitioner is that the jurisdiction of the Additional District Judge to hear this matter has ceased to exist after the amendment and now the suit is only to be tried up by the Judge Small Causes, Meerut. In support of his contention, the learned Counsel has referred to two decisions of this Court report in AIR 1975 Alld 425, *M.P. Mishra v. Sangam Lal Agarwal* and AIR 1978 Alld 129, *Trilok Singh v. Smt. Jamuna Devi* and another. I do not agree with the submissions made by the learned Counsel for the petitioner. It is not-worthy that while allowing the revision filed by the petitioner against the judgment and order of the Additional District Judge decreeing the plaintiff's suit this Court had remanded the matter back to the VIIIth Additional District Judge, Meerut with certain directions. This order was confirmed by the Supreme Court in the Special Leave Petition filed by the petitioner against the judgment of this Court. The Supreme Court also directed the Additional District Judge to dispose of the matter remanded to him by the High Court preferably within six months. It cannot be disputed that the suit was filed in the Court of District Judge and transferred to the Court of the VIIIth Additional District Judge as the valuation was over Rs.5000, and the said Court than had jurisdiction to entertain the suit. The said Court was invested with the jurisdiction of a Judge of a Court of Small Causes in terms of Section 25(2) of the Bengal, Agra and Assam Civil Courts Act. The matter was specifically remanded to the said Court by the order dated 9.8.1991 by this Court. The said order was confirmed by the Supreme Court in the Special Leave Petition and the respondent No.1 was directed to decide the matter preferably within six months. Thereafter, the said Court was seized of the matter and was proceeding with the hearing of the said Suit No. 39 of 1988. Under the circumstances, the argument of the learned Counsel for the petitioner cannot be accepted that respondent No. 1 had ceased to have jurisdiction and the matter should be transferred to the Court of Civil Judge who was exercising the power of Judge Small Causes to the extent of valuation of Rs. 25,000. Thus, the order passed by the respondent No. 1 cannot be said to be incorrect, illegal or without jurisdiction. So far as the decisions cited by the learned Counsel for the petitioner are concerned, they do not apply to the facts of the present case or decide the controversy involved in the present case. I hold that since the matter was specifically remanded to the VIIIth Additional District Judge by this Court and the said order was confirmed by the Supreme Court with a direction to the VIIIth Additional District Judge to decide the matter, the said Court will have jurisdiction to decide the suit." (Emphasis supplied by me) 31. There is yet another aspect of the matter. Section 15 of the Civil Procedure Code, 1908 provides for the court in which suits shall be instituted, as under; "Section 15. Court in which suits to be instituted- Every suit shall be instituted in the Court of the lowest grade competent to try it." 32. Section 17 of the Provincial Small Cause Courts Act, 1887 provides for

application of the Code of Civil Procedure as under; "(1)The procedure prescribed in the Code of Civil Procedure, 1908, shall, save in so far as is otherwise provided by that Code or by this Act], be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits: Provided that an applicant for an order to set aside a decree passed ex parte or for a review of judgement shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give [such security for the performance of the decree or compliance with the judgment as the Court may, on a previous application made by him in this behalf, have directed]. (2) Where a person has become liable as surety under the proviso to sub-section (1), the security may be realized in manner provided by section [145] of the Code of Civil Procedure, [1908]." 33. In SCC Revision Defective No. 76 of 2017 (Sanjay Sharma @ Pintu v. Anil Dua @ Titu) decided on 13.7.2017, this Court considered the similar controversy after noticing the relevant facts and held as under; "6. The counsel for the revisionist submitted that pecuniary jurisdiction of District Judge exercising power of Judge Small Cause Court was enhanced to Rs. one lakh and above, by Uttar Pradesh Civil Laws (Amendment) Act, 2015 w.e.f. 07.12.2015, as such Special Judge (E.C. Act), Kanpur Nagar had no jurisdiction to try the suit under Section 15 of Provincial Small Cause Courts Act, 1887, thereafter as valuation of the suit was below Rs. one lakh and decree dated 14.07.2016 passed by him in the suit is nullity and not executable. She relied upon judgments of this Court in Tejumal v. Mohd. Sartaz, 2016 (3) ARC 570 and Shobhit Nigam (Shri) v. Smt. Batulan, 2016 (3) ARC 570, in which it has been held that after coming into force of Uttar Pradesh Civil Laws (Amendment) Act, 2015 w.e.f. 07.12.2015, District Judge had no jurisdiction to try SCC suits below the valuation of Rs. One lakh and decree passed by him subsequent to 07.12.2015 is nullity. Judgment in Kwaliti Restaurant (M/S) v. Sunil Khetrapal, 2016 (3) ARC 503, in which it has been held that after enhancement of pecuniary jurisdiction, cases below the limit of pecuniary jurisdiction are liable to be transferred to the Court of competent jurisdiction. So far as direction of Supreme Court to give undertaking for vacating the premises in question within two weeks, is concerned, it does not bar statutory remedy available to the revisionist as held by Supreme Court in P.R. Deshpande Maruti Balaram Haibatti, AIR 1988 SC 2979. 8. Section 15 C.P.C. provides that every suit shall be instituted in the Court of the lowest grade competent to try it. The word "competent" used in this Section has reference to the jurisdiction of a Court. Jurisdiction means extent of authority of a Court to administer justice not only with reference to the subject matter of the suit but also to the pecuniary and territorial jurisdiction. A Court cannot try a suit of higher valuation than his pecuniary jurisdiction. However, Section 15 C.P.C. enacts a rule of procedure with an object to avoid overcrowding in the Court of higher grade. It does not oust the jurisdiction of Court of higher grade. The competency of the Court of higher grade to try a suit, below the valuation of his pecuniary jurisdiction has not been affected either by Section 15 C.P.C. or by any other provision as held by Ratan Sen v. Bhau, AIR 1944

Allahabad 1, Ramamirtham v. Ram Film Service (1951) ILR Mad. 93 (FB) and Venkateshwarlu v. Satyanarayana, AIR 1957 Andhra Pradesh 49 (FB). 9. On the basis of Section 21 C.P.C. and Section 11 Suit Valuation Act, 1887, a distinction, has been made between a jurisdiction with regard to the subject-matter of the suit and that of territorial and pecuniary jurisdiction. Whereas in the case falling within the former category the judgment would be a nullity, in the latter it would not be. So far as pecuniary jurisdiction and territorial jurisdiction is concerned, Section 21 C.P.C., and Section 11 of Suit Valuation Act, 1887 have laid down procedures for raising objection in this respect at the earliest opportunity to contest. Prior to insertion of Section 21 (2) C.P.C. w.e.f. 01.02.1977, a bench of four Hon'ble Judges of Supreme Court in Kiran Singh v. Chaman Paswan, AIR 1954 SC 340, read the provisions of Section 11 of Suit Valuation Act, 1887 in Section 21 C.P.C. and held Section 99 C.P.C. therefore gives no protection to decrees passed on merits, when the courts which passed them lacked jurisdiction as a result of overvaluation or undervaluation. It is with a view to avoid this result that Section 11 Suit Valuation Act was enacted. It provides that objections to the jurisdiction of a court based on overvaluation or undervaluation shall not be entertained by an appellate court except in the manner and to the extent mentioned in the section. It is a self-contained provision complete in itself, and no objection to jurisdiction based on overvaluation or undervaluation can be raised otherwise than in accordance with it. With reference to objections relating to territorial jurisdiction, Section 21 of the Civil Procedure Code enacts that no objection to the place of suing should be allowed by an appellate or Revisional Court, unless there was a consequent failure of justice. It is the same principle that has been adopted in Section 11 of the Suit Valuation Act with reference to pecuniary jurisdiction. The policy underlying Sections 21 and 99 of the Civil Procedure Code and Section 11 of the Suit Valuation Act is the same, namely, that when a case had been tried by a court on the merits and judgment rendered, it should not be liable to be reversed purely on technical grounds, unless it had resulted in failure of justice, and the policy of the legislature has been to treat objections to jurisdiction both territorial and pecuniary as technical and not open to consideration by an appellate court, unless there has been a prejudice on the merits. The contention of the appellants, therefore, that the decree and judgment of the District Court, Monghyr, should be treated as a nullity cannot be sustained under Section 11 of the Suits Valuation Act. 12. Unfortunately relevant portion of judgment of Supreme Court in Kiran Singh's case (supra) and Section 21 (2) C.P.C. was not brought to the notice of Hon'ble Single Judge in Tejmal's case due to which a view contrary to view of Hon'ble Supreme Court has been taken. This judgment is per incuriam and has no binding precedent. A Bench of seven Hon'ble Judges of Supreme Court in A.R. Antulay v. R.S. Nayak, (1988) 2 SCC 602, held that "Per incuriam" are those decisions given in ignorance or forgetfulness of some inconsistent statutory provision or of some authority binding on the court concerned, so that in such cases some part of the decision or some step in the reasoning on which it is based, is found, on that account to be demonstrably wrong. It is a settled rule

that if a decision has been given per incuriam the court can ignore it. 13. There is nothing in Uttar Pradesh Civil Laws (Amendment) Act, 2015 that after enhancement of valuation, the suit pending before Court will be automatically transferred. It is admitted that none of the parties filed any application for transferring the suit." (Emphasis supplied by me) 34. In the case of *Tejumaal v. Mohd. Sarfraz*, 2016 (3) ARC 570 (para 5, 6 and 10), a learned Single Judge of this Court held that in view of the U.P. Civil Laws (Amendment) Act, 2015 (U.P. Act No. 14 of 2015) with effect from 7.12.2015, the jurisdiction to try suits between lessor and lessee for rent and eviction under Section 15 of the Provincial Small Cause Courts as applicable to the State of U.P. up to the valuation of Rs. 1,00,000/-, irrespective of institution of the suit vests in the Small Cause Courts presided over by the Civil Judge (S.D.) and that the District Judge/Additional District Judge would have jurisdiction to decide such cases of higher valuation above Rs. 1,00,000/- only and accordingly, the suit involving valuation of Rs. 41,400/- was held to be cognizable by the Small Causes Court of Civil Judge (S.D.) and not by the District Judge/Additional District Judge. This judgment has been held to be per-in-curiam having no binding precedent in the case of *Sanjay Sharma @ Pintu* (Supra) decided on 13.7.2017. Under the circumstances, the case of *Tejumaal* (Supra) is of no help to the revisionist-defendants. 35. In the case of *Devendra Upadhyay v. Bhudev Prasad Sharma*, 2017 (7) ADJ 319, this Court considered the effect of aforesaid U.P. Act No. 14 of 2015 and the question as to whether on account of alleged lack of pecuniary jurisdiction, the judgment shall be void ab initio and held as under; "23. In *Subhash Mahadevasa Habib v. Nemasa Ambasa Dharmadas*, (2007) 13 SCC 650, the apex court had examined in some detail the effect of the amendments brought about by Act No. 104 of 1976. In that case it was observed that the Code of Civil Procedure has made a distinction between lack of inherent jurisdiction and objection to territorial jurisdiction and pecuniary jurisdiction. It was held that an inherent lack of jurisdiction may make a decree passed by that court void in law, but a decree passed by a court lacking territorial jurisdiction or pecuniary jurisdiction does not automatically become void. It was held that at best it is voidable in the sense that it could be challenged in appeal therefrom provided the conditions of Section 21 of the Code of Civil Procedure are satisfied. In the above decision, the Apex Court also held that the phrase "place of suing" used in section 21A C.P.C., as inserted by Act No. 104 of 1976, is not restricted to the territorial aspect of the jurisdiction but shall include pecuniary aspect as well. 24. It is thus now well settled that no decree can be claimed to be void ab initio merely because the Court that passed the decree did not have pecuniary jurisdiction to deal with the suit though the appellate court or revisional court can set aside the decree on ground of lack of jurisdiction provided the conditions of Section 21(2) of the Code are satisfied. 25. In view of the aforesaid legal position, as emerging from the amendments carried out by Act No. 104 of 1976, the proceeding in a court lacking pecuniary jurisdiction is not a nullity and therefore to annul the proceeding the conditions laid out in Section 21 of the Code are to be satisfied. The party aggrieved will have to demonstrate that on account of the proceeding

in a court having no pecuniary jurisdiction there had been a consequent failure of justice." (Emphasis supplied by me) Effect of Section 25 of the Bengal, Agra and Assam Civil Courts Act, 1887. 36. Section 25 as applicable in Uttar Pradesh reads as follows: "25. (1) The High Court may by notification in the Official Gazette, confer within such local limits as it thinks fit, upon any Civil Judge or Munsif, the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Court Act, 1887 for the trial of suits cognizable by such Courts, up to such value not exceeding five thousand rupees as it thinks fit, and may withdraw any jurisdiction so conferred: Provided that in relation to suits of the nature referred to in the proviso to sub-section (2) of Section 15 of the said Act, the reference in this sub-section to five thousand rupees shall be construed as reference to twenty five thousand rupees. (2) The High Court may by notification in the official Gazette, confer upon any District Judge or Additional District Judge the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, for the trial of all suits (irrespective of their value), by the lessor for the eviction of a lessee from a building after the determination of his lease, or for the recovery from him of rent in respect of the period of occupation thereof during the continuance of the lease or of compensation for the use and occupation thereof after such determination of lease, and may withdraw any jurisdiction so conferred. Explanation.-For the purposes of this sub-section, the expression "building" has the same meaning as in Art. (4) in the Second Schedule to the said Act. (3) [* * * *] (4) Where the jurisdiction of a Judge of a Court of Small Causes is conferred upon any District Judge or Additional District Judge by notification under this section, then notwithstanding anything contained in Section 15 of the Provincial Small Cause Courts Act, 1887, all suits referred to in sub-section (2) shall be cognizable by Court of Small Causes." 37. Under Section 25(2) of the Bengal, Agra and Assam Civil Courts Act, 1887, the High Court issued Notification No. 525 dated 25.10.1972 published in the U.P. Gazette dated 11.11.1972 page 3758 as under:- "Notification under Section of Bengal, Agra and Assam Civil Courts Act, 1887 - October 25, 1972, No. 525- In exercise of the powers conferred by sub-section (2) of Section 25, of the Bengal, Agra and Assam Civil Courts" Act, 1887 (Act XII of 1887), as amended by the Uttar Pradesh Civil Laws (Amendment) Act, 1972 (U.P. Act No. 37 of 1972), delegated by the State Government under sub-section (3) of the said Section 25 to the High Court, the High Court is pleased to confer upon all the District Judges and Additional District Judges, the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Causes Courts Act, 1887 (Act IX of 1887) for the trial of all suits (irrespective of their value) of the nature referred to in the said sub-section (2)." 38. The aforesaid notification as well as the amendments made by the State of U.P. in Section 15(3) of the Provincial Small Causes Court Act has been subject-matter of consideration by this Court in *M.P. Mishra v. Sangam Lal Agarwal*, 1975 (1) ALR 682. This Court after noticing the amendments made in Section 15 of the Provincial Small Causes Court Act as well as in Section 25 of the Bengal, Agra and Assam Civil Courts Act has held that the expression "Court of Small Causes" has to be interpreted in the

context in which the said expression is used. The expression has been used at the end of Sub-section (4) of Section 25 really means and refers to a District Judge or Additional District Judge on whom the jurisdiction of a Judge, Small Causes has been conferred. Proceeding further the learned single Judge has observed as follows: "13. It was next contended that without an amendment of Section 15 of the Provincial Small Cause Courts Act a mere amendment of Section 25 of the Bengal, Agra and Assam Civil Courts Act could not serve the legislative intention. Again, I do not see any force in this contention. The purpose of Section 15(3) of the Provincial Small Cause Courts " Act is different from the purpose underlying Section 25 of the Bengal, Agra and Assam Civil Courts Act. Section 15(3) enables the State Government to raise the pecuniary jurisdiction of a Court of Small Causes. Normally the State Government can raise such limit to try suits whose value does not exceed Rs. 2,000 but in the case of suits between the lessor and the lessee of the aforesaid variety such enhancement can be up to the limit of Rs. 5,000. It should be clear that Section 15(3) has a reference to the regular Court of Small Causes established in a District. Section 25 of the Bengal, Agra and Assam Civil Courts Act enables the State Government (and after delegation the High Court) to confer upon any Civil Judge or Munsif or upon a District Judge or Additional District Judge the jurisdiction of a Judge of Small Causes. Whereas in Section 25(1) there are pecuniary limits in the case of Civil Judges and Munsifs, in Section 15(2) there are no such pecuniary limits in respect of the District Judge or the Additional District Judge. If under Section 25 the State Government or the High Court is empowered to confer on special officers the jurisdiction of a Judge of Court of Small Causes there is no reason to hold that such conferment must be restricted to the pecuniary jurisdiction of a Court of Small Causes. Admittedly, in Section 25 itself there is no such restriction about the pecuniary jurisdiction. Section 15 (2) of the Provincial Small Cause Courts Act has been made in explicit terms "subject to the provisions of any enactment for the time being in force". It is this sub-section which puts a limit on the pecuniary jurisdiction of the Courts of Small Causes. But as it is clearly stated that the provision is subject to the provisions of any other enactment, therefore, it is possible for the State Government acting under the provisions of Section 25 of the Bengal, Agra and Assam Civil Courts Act, 1887, to confer a higher pecuniary jurisdiction on the District Judge and the Additional District Judge." 39. The aforesaid observation has been approved by the Division Bench of this Court in the case of Rajendra Shah v. Kamla Devi, 1983 ARC 337. 40. The aforesaid provisions of Section 25 of The Bengal, Agra and Assam Civil Courts Act, 1887 and Section 15 of the the Provincial Small Cause Courts Act, 1887 came for consideration before this Hon'ble Court in the case of Trilok Singh v. Jamuna Devi and another, AIR 1978 Allahabad 129 and this Court held as under: "15. On a consideration of the aforesaid provisions of the Provincial Small Cause Courts Act and of the Bengal, Agra and Assam Civil Courts Act, in AIR 1975 All 425 (M. P. Misra v. Sangam Lal Agrawal), I laid down that the pecuniary limit of Rs. 5000/- laid down by the proviso added to Section 15 (3) of the Provincial Small Cause Courts Act by the Civil Laws Amendment

Act, 1972 (U. P. Act No. XXXVII of 1972), does not apply to the jurisdiction of the District Judges and the Additional District Judges to try suits by the lessor for the eviction of a lessee from a building after the determination of his lease or for the recovery from him of rent etc. where they have been conferred such jurisdiction in terms of Section 25(2) of the Bengal, Agra and Assam Civil Courts Act after its amendment by the U. P. Civil Laws Amendment Act of 1972. The said view of mine has been followed by a learned single Judge of this court while deciding Civil Revision No. 1432 of 1974 on 21-11-1975 (All). In (1977) 3 All LR 381 Hon"ble Chandra Shekhar J. (as his Lordship then was) independently reached the same conclusion without referring to my aforesaid reported judgment. Nothing has been submitted from the bar which would induce me to revise my opinion and in this view of the matter, I overrule the first contention of Sri Sidhewshwari Prasad and hold that despite the valuation of the suit in question exceeding Rs. 5,000/- it was triable by the Additional District Judge as a suit of the Small Cause nature in view of the conferment of jurisdiction on him to do so in terms of Section 25(2) of the Bengal, Agra and Assam Civil Courts Act." 41. In the case of Ram Lal Yadav v. Kulwant Rai Puri, 1998 (1) ARC 7, this Court again considered in the matter of eviction suit regarding jurisdiction of District Judges and Additional District Judges, with reference to the aforesaid Notification and the provisions of Section 25(2) of the the Bengal, Agra and Assam Civil Courts Act, 1887 and Section 15 of the Provincial Small Cause Courts Act, 1887 and held as under: "10. Challenging the judgment of the learned District Judge dated 1.7.1991, the learned Counsel for the applicants submitted that the learned District Judge had no jurisdiction to try the present SCC Suit between lessor and lessee for eviction. This contention can not be accepted in view of the notification issued by the State Government in exercise of powers under Section of Bengal, Agra and Assam Civil Courts Act, 1887. After the notification was published in U.P. Gazette the High Court issued Notification under Section 25(2) of Bengal, Agra and Assam Civil Courts Act, 1887 dated October 25, 1972, published in U.P. Gazette dated 11.11.1972, which is quoted below:- "Notification under Section of Bengal, Agra and Assam Civil Courts Act, 1887 - October 25, 1972, No. 525-In exercise of the powers conferred by sub-section (2) of Section 25, of the Bengal, Agra and Assam Civil Courts" Act, 1887 (Act XII of 1887), as amended by the Uttar Pradesh Civil Laws (Amendment) Act, 1972 (U.P. Act No. 37 of 1972), delegated by the State Government under sub-section (3) of the said Section 25 to the High Court, the High Court is pleased to confer upon all the District Judges and Additional District Judges, the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Causes Courts Act, 1887 (Act IX of 1887) for the trial of all suits (irrespective of their value) of the nature referred to in the said sub-section (2). Published in U.P. Gazette, dated 11.11.1972 page 3758." 11. From the perusal of the above notification, it is established that there was no lack of jurisdiction in deciding the present suit by the learned District Judge, Lucknow." 42. In the case of Kedar Nath Kanu v. Mahabir Prasad, 1985 (1) ARC 84, this Court again considered in the matter of eviction suit regarding the jurisdiction of District Judges and Additional District Judges, with reference to the

aforesaid Notification and the provisions of Section 25(2) of the the Bengal, Agra and Assam Civil Courts Act, 1887 and provisions of Section 15 of the Provincial Small Cause Courts Act, 1887 and held as under: "12. There are several authorities of this Court against such submissions. I may only refer to Rajendra Shah v. Smt. Kamla Devi reported in Vol.1, Allahabad Rent Cases 1983 p.337 which lays down :- "(A) Provincial Small Cause Courts Act, 1887 Section 15 Bengal, Agra and Assam Civil Courts Act, 1887, Section 25-Conferment of jurisdiction of Small Cause Court - Section 15 of P.S.C.C. Act confers, such jurisdiction of Courts constituted and established by Small Cause Courts Act only-- When other classes of Civil Courts are conferred with jurisdiction of Small Cause Court, that is dealt with by Section 25 of B.A.A.C.C. Act--State Government and High Court, has been given powers by Section 25 to confer jurisdiction of Small Cause Court on District Judges and Addl. District Judges--Thus, Notification issued on October 25, 1972 by High Court is valid and effective since the date it was issued. 13. I am bound by aforesaid authority and see no good reason to strike a discordant note and refer the matter to a larger Bench for decision afresh as prayed. So this contention is repelled." 43. In the case of Smt. Dilip Kaur and another v. A.D.J., J.S.C.C. Special Judge (Dacoity Chhetra) Lalitpur and others, 2007 (67) ALR 283, this Court again considered the provisions of Section 25(2) of the the Bengal, Agra and Assam Civil Courts Act, 1887, provisions of Section 15 of the Provincial Small Cause Courts Act, 1887 and the Notification dated 25.10.1972, and, held as under: "8. From the above, it follows that it was authoritatively pronounced by this Court that Section 15 of the Provincial Small Cause Courts Act deal with the jurisdiction of Courts of Small Causes constituted and established by Small Cause Courts Act. It does not deal with the conferment of jurisdiction of other classes of civil courts, i.e., District Judge and Additional District Judges, as the constitutional jurisdiction of other classes of civil courts is dealt with by the Bengal, Agra and Assam Civil Courts Act. The notification reproduced above clearly shows that the High Court conferred upon all the District Judges and the Additional District Judges, the jurisdiction of a Court of Small Causes under the provisions of Small Cause Courts Act for the trial of all suits irrespective of their valuation. It follows that the District Judges and the Additional District Judges have no pecuniary limitation to entertain, try and decide suits of the nature of small causes. It was not argued by the learned Counsel for the petitioners that the aforesaid notification issued under Section 25(2) of the Bengal, Agra and Assam Civil Courts Act has no application. His argument proceeded ignoring the aforesaid notification and conferment of power by the High Court on District Judges and the Additional District Judges, of a Judge of a Court of Small Causes under the provisions of Small Causes Courts Act in respect of Small Causes suits. In the case in hand, the suit was instituted before the District Judge exercising power of Judge Small Causes and is presently pending before the Additional District Judge, Judge, Small Causes Court/Special Judge (Dacoity Chhetra) Lalitpur. The court below has entertained the plaint and registered the suit on account of conferment of power on it by the High Court under the aforesaid notification

dated 25th of October, 1972 and there is no illegality in doing so." 44. In the case of Rajendra Shah (supra), similar question was considered by a Division Bench of this Court and it was held as under: "14. Section 15 of the Provincial Small Cause Courts Act deals with the jurisdiction of Courts of Small Causes constituted and established by the Small Cause Courts Act. It does not deal with conferment of jurisdiction on other classes of civil courts e.g. District Judges and Additional District Judges. The constitution and jurisdiction of other classes of civil courts is dealt with by the Bengal, Agra and Assam Civil Courts Act. Section 25 of the latter Act specifically deals with conferment of jurisdiction of a Judge Small Causes on the existing civil courts. Section 15 of the Provincial Small Cause Courts Act hence could not bear the conferment of jurisdiction of a Judge of Small Causes on the other civil courts. Further Section 15(2) itself operates subject to any other enactment for the time being in force. That will include Section 25 of the Bengal, Agra and Assam Civil Courts Act. Section 15 of the Provincial Small Cause Courts Act hence could not and did not bar conferment of jurisdiction of a Judge Small Causes on other classes of civil courts including District Judges and Additional District Judges." 45. In the case of Smt. Madhu Gupta v. Satish Chand and others, 2010 (80) ALR 180 (Paras 12 to 19), this Court again considered in a tenancy matter, the provisions of Section 25(2) of the the Bengal, Agra and Assam Civil Courts Act, 1887 and provisions of Section 15 (2) of the Provincial Small Cause Courts Act, 1887 with respect to pecuniary jurisdiction, and, held as under: "13. A close analysis of the different provisions, notification and amendment, it is evident that U.P. Act No. 37 of 1972 was enacted with an object that the legislature intended to give wider scope to the suits relating to buildings after determination of lease. In fact this was the sole object to amend Section 15 and Schedule of Provision of Small Causes Courts Act for enabling the Court to take judicial notice. No doubt the word "landlord" is distinct from "lessor" and "tenant" is distinct from "lessee" but this foundation has to be laid in the pleadings as to how two are different in a particular case and in what manner "landlord" is differentiable to a "lessor". A "lessor" may be an agent of "landlord" and, therefore, the word "landlord" will include a "lessor" who may have a subordinate right but the term "landlord" will include the "lessor". A landlord is a person to whom rent is payable, therefore, by "lease" a person acquires right of "tenancy" or "lessee". 15. Thus, in view of the aforesaid Notification, it is evident that all the District Judges and Additional District Judges were bestowed jurisdiction of a Judge, Small Causes for the trial of all suits irrespective of their value. The High Court though armed the District Judges and Additional District Judges with the power to try the suits of the nature referred to in sub Section (2). Perusal of the U.P. Civil Laws (Amendment) Act, 1991 was made effective from January 15, 1991 and amendment of Section 15 of Act No. IX of 1987 was liable to be read along with notification issued by the High Court. 18. In a recent case decided by this Court, Mohd. Haneef v. Sunil Tuli, 2009 (1) ARC 750, the Court held that there is no conflict between two provisions of Section 25 Bengal, Agra, Assam Civil Courts Act as amended by U.P. Act No. 37 of 1972 and provisions of U.P. Civil Laws Amendment Act, 1991. Both can be

read harmoniously and final result is that unlimited jurisdiction can be exercised by the District Judge and Additional District Judge exercising jurisdiction of Judge Small Causes Court where ever there is relationship of lessor and lessee and lease has been determined." 46. In view of the above discussion, the Question No.1 is answered against the Revisionists-defendants and it is held that the judgment dated 04.05.2017 in S.C.C. Case No.09 of 1979 passed by the Additional District Judge, Court No.12, Moradabad, does not suffer from lack of pecuniary jurisdiction. The impugned judgment and the decree have been validly passed. Question No.2 :- 47. In para-19 of the judgment dated 03.07.2015 in Civil Revision No. 930 of 1991 {Smt. Vidyawati (since deceased and substituted by legal heirs) v. Sumer Chand}, this Court observed that the disputed premises was allotted to the defendant Sumer Chand, who inducted the defendants No. 3 & 4, namely Sri Pradyumna Kumar Jain and Pradeep Kumar Jain to run partnership hotel business in the disputed premises in the name and style of "Pankaj Hotel". In para-19 of the aforesaid judgment, this Court observed as under :- "I finds substance in the submissions. As already said, defendant 1 was allotted disputed premises by RCEO and tenancy commenced in his name. He inducted defendants 3 and 4 to run a partnership Hotel business in the disputed premises. Since knowledge of landlord to this partnership business has been found proved, though it may not be a case of subletting, but the co-tenancy enjoyed by defendant 3 and 4 was along with defendant 1. All three were joint and co-tenants. Hence for any act or omission the responsibility was also joint and several. Any act or omission referable to one of the partner or one of the co-tenant would cause same consequence in respect to all other co-tenants. If one or more partner subsequently withdrew, for the acts and omissions of such partner, when partnership was subsisting, other partners would be liable and bound to face same consequence, as would have been faced by outgoing partner. Mere fact that partner, who has allegedly did something, has separated would not absolve other partners from liability they had as co-tenant with outgoing partner. Thus the mere fact that defendant 1 has not contested the matter or withdrawn from partnership would not exempt defendants 3 and 4 from any liability accrued when partnership was continuing, if the allegations of material alteration resulting in diminishing the value of property is/are found correct. The fact that partner to whom allotment was made by RCEO has ceased to be tenant and tenancy stood devolved upon remaining tenants would make no difference for the plaintiffs-landlords for the reason that responsibility is joint and several amongst the partners. Therefore, it was necessary for Trial Court to decide whether there was any material or structural alteration which has the effect of diminishing value of property and what was the period during which this structural alteration was made. If period was when defendants 1, 3 and 4 were enjoying tenancy in partnership, all the partners are bound to face the consequences as provided in law. Mere fact that one or more partner has separated or withdrawn subsequently would make no difference and absolve remaining partners from their liability and consequences. The view, therefore, taken by Court below in respect to Issues 3 and 4, in my view, can not sustain.

These issues have not been examined and dealt with properly but in a casual fashion. Both these issues have been answered only on the ground that defendant 1 has ceased to be a partner and has not contested the matter. In my view matter requires remand to Court below to look into and record its finding in respect to Issues 3 and 4 in the light of observations made above." (Emphasis supplied by me) 48. In remand proceedings, the Court below noted the facts in detail in the judgment. It considered the notice dated 24.06.1978 being Paper No. 104-C given by the plaintiffs to the defendants which contains description of structural alterations made by the defendants which diminished the value of the property. On behalf of the plaintiffs, Sri Rakesh Chand, P.W. - 1 was examined, who, in his evidence, gave details of structural alterations and damages made by the defendants in the disputed building. He also proved notice being Paper No.104-C, postal receipt and acknowledgements being Paper Nos. 106-C, 108-C, 110-C and 112-C. On behalf of the defendants, Sri Pradyumna Kumar Jain D.W. - 1 was examined who stated that certain repairs in the disputed property were made with the consent of the deceased plaintiff No. 1 Bal Mukund. He referred to Paper No. 42-C and stated that this is receipt which bears signature of Bal Mukund. In his cross-examination, P.W. - 1, in substance, stated that the defendant Pradyumna Kumar Jain has not spent any amount towards repairs with the consent of Lala Bal Mukund and the receipt being Paper No. 42-C is a forged paper which does not bear signature of Bal Mukund. The said receipt was got typed by the defendant Pradyumna Kumar Jain but it neither bears revenue stamp nor signatures of Bal Mukund. On 31.08.1984, a report was submitted by the Advocate Commissioner being Paper No. 148-C. After prior intimation to the counsels for the plaintiffs and defendants, the Advocate Commissioner went on spot on 08.05.1983 at 11.00 A.M. to inspect the disputed building and at that time on behalf of the plaintiff Sri Rakesh Chand and his counsel Vijay Mohan Agarwal and on behalf of respondents Sri Pradyumna Kumar Jain, defendant No. 4 and pairokar of defendant No. 3 were present. The disputed property was inspected in their presence with the help of the map Paper No. 125-C and huge structural alterations were found. The alterations found as per Advocate Commissioner report dated 31.08.1984 being Paper No. 148-C, have been noted in paras-13 and 15 of the impugned judgment. The Advocate Commissioner prepared the report in the presence of the parties. The objection filed by the defendants being Paper No. 147-C was not supported by any affidavit. Even the D.W. - 1 has said nothing about his objection about the Advocate Commissioner's report. No evidence could be led by the defendants to establish that they made structural alterations with the consent of the plaintiffs-landlords. The allegation of oral consent in this regard made by the defendant was clearly denied by the plaintiffs. The receipt dated 01.09.1973 being Paper No. 42-C could not be proved by the defendants which was filed by them. Undisputedly, the defendants were continuing as tenant on 01.09.1973 and also on the date of notice dated 24.06.1978 being Paper No. 104-C which was given on account of structural alterations made by the defendants which diminished the value of the property. The alterations, as a matter of act, have been found as evident from

the Advocate Commissioner's report being Paper No. 148-C which was prepared in presence of the parties after inspection on 08.05.1983. On the facts and evidences on record, the Court below found that huge structural alterations diminishing the value of the property were made by the defendants without consent of the plaintiffs. The findings so recorded by the Court below are the findings of fact based on consideration of relevant evidences on record and, therefore, it cannot be interfered with in the present Revisions filed by the revisionists defendants under Section 25 of Provincial Small Causes Court Act, 1887. The impugned judgment is valid and does not suffer from any illegality or perversity. Thus, the question No. 2 is also answered against the defendants revisionist/ defendants and in favour of the plaintiffs respondents.

CONCLUSTIONS :- 49. The discussions made above is briefly summarized as under:- (i) The golden rule of interpretation is that words of a statute must, prima facie, be given their ordinary meaning when the language or phraseology used by the legislature is precise and plain. This, by itself proclaims the intention of the legislature in unequivocal terms, the same must be given effect to and it is unnecessary to fall upon the legislative history, Statement of Objects and Reasons, framework of the statute, etc. Such an exercise need to be carried out only when the words are unintelligible, ambiguous or vague. (ii) The amendment made in Section 15 of the Act made by the U.P. Act No. 14 of 2015 as aforequoted, do not specify as whether the cases pending before the court by way of remand by order of a higher court with specific directions shall be heard by the same court or by the court having pecuniary jurisdiction as per amended provisions. Thus, ambiguity in the amended provisions requires the help of the statement of objects and reasons for interpretation of the amended provisions. (iii) It is trite law that the Statement of Objects and Reasons is a key to unlock the mind of the legislature in relation to substantive provisions of statutes and it is also well settled that a statute is best interpreted when we know why it was enacted. The objects and reasons as such may not be admissible as an aid of construction to the statute but it can be referred for the limited purpose of ascertaining conditions prevailing at the time of the introduction of the Bill and the extent and urgency of the evil which was sought to be remedied. (iv) The Statement of Objects and Reasons of amendment of Section 15 of the Act by U.P. Act No. 14 of 2015 shows that the value of subject matters brought to the courts has increased substantially and as such the pecuniary jurisdiction of the Civil Courts as well as those of Small Cause Courts in the State of Uttar Pradesh was required to be raised for institution of Civil Suits and appeals. Thus, the amendment itself appears to be prospective in nature and would apply only to suits and appeals being instituted after the amendment. (v) The Code of Civil Procedure has made a distinction between law of inherent jurisdiction and objection to territorial jurisdiction and pecuniary jurisdiction. Whereas an inherent lack of jurisdiction may make the decree passed by that court to be one without jurisdiction or void in law, a decree passed by a court lacking territorial jurisdiction or pecuniary jurisdiction does not automatically become void. At best, it is voidable in the sense that it can be challenged in appeal therefrom provided

the conditions of Section 21 of the Code of Civil Procedure are satisfied. No objection to the pecuniary jurisdiction of the court could be raised successfully in an appeal against the decree unless it had been raised at the earliest opportunity and failure of justice or prejudice was shown. The proceeding in a court lacking pecuniary jurisdiction is not a nullity and therefore to annul the proceeding the conditions laid out in Section 21 of the Code are to be satisfied. The party aggrieved will have to demonstrate that on account of the proceeding in a court having no pecuniary jurisdiction there had been a consequent failure of justice.

(vi) Section 15 C.P.C. enacts a rule of procedure with an object to avoid overcrowding in the Court of higher grade. It does not oust the jurisdiction of Court of higher grade. The competency of the Court of higher grade to try a suit, below the valuation of his pecuniary jurisdiction has not been affected either by Section 15 C.P.C. or by any other provision. The policy underlying Sections 21 and 99 of the Civil Procedure Code and Section 11 of the Suit Valuation Act is the same, namely, that when a case had been tried by a court on the merits and judgment rendered, it should not be liable to be reversed purely on technical grounds, unless it had resulted in failure of justice, and the policy of the legislature has been to treat objections to jurisdiction both territorial and pecuniary as technical and not open to consideration by an appellate court, unless there has been a prejudice on the merits.

(vii) In the case of Sanjay Sharma @ Pintu (*supra*) this Court held that there is nothing in Uttar Pradesh Civil Laws (Amendment) Act, 2015 that after enhancement of valuation, the suit pending before Court will be automatically transferred. The judgment in the case of Tejumal (*supra*) was also held to be per-incuriam and is not binding precedent.

(viii) Section 15 (2) of the Provincial Small Cause Courts Act, 1887 operates subject to any other enactment for the time being in force. Therefore Section 25(2) of The Bengal, Agra and Assam Civil Courts Act, 1887 and the Notification No. 525 dated 25.10.1972 issued there under by the High Court clearly shows that the High Court has conferred upon all the District Judges and the Addl. District Judges, the jurisdiction of a court of small cause court for trial of all suits irrespective of their valuation. Section 15 of the Provincial Small Cause Courts Act deal with the jurisdiction of Courts of Small Causes constituted and established by Small Cause Courts Act. It does not deal with the conferment of jurisdiction of other classes of civil courts, i.e., District Judge and Additional District Judges, as the constitutional jurisdiction of other classes of civil courts is dealt with by the Bengal, Agra and Assam Civil Courts Act. The notification reproduced above clearly shows that the High Court conferred upon all the District Judges and the Additional District Judges, the jurisdiction of a Court of Small Causes under the provisions of Small Cause Courts Act for the trial of all suits irrespective of their valuation. It follows that the District Judges and the Additional District Judges have no pecuniary limitation to entertain, try and decide suits of the nature of small causes.

(ix) There is no conflict between two provisions of Section 25 of The Bengal, Agra, Assam Civil Courts Act, 1887 as amended by U.P. Act No. 37 of 1972 and provisions of U.P. Civil Laws Amendment Act, 1991 or U.P. Civil Laws (Amendment) Act, 2015 (U.P. Act No. 14

of 2015). Both can be read harmoniously and final result is that unlimited jurisdiction can be exercised by the District Judges and Additional District Judges exercising jurisdiction of Judge Small Causes Court where ever there is relationship of lessor and lessee and lease has been determined. (x) The Addl. District Judge, Court No. 12, Moradabad was having pecuniary jurisdiction to decide S.C.C. Case No. 09 of 1979. The Question No. 1 is answered in favour of the respondents-plaintiffs and against the Revisionists-Defendants. (xi) On the facts and evidences on record, the Court below found that huge structural alterations diminishing the value of the property were made by the defendants without consent of the plaintiffs. The findings so recorded by the Court below are the findings of fact based on consideration of relevant evidences on record and, therefore, it cannot be interfered with in the present Revisions filed by the revisionists defendants under Section 25 of Provincial Small Cause Courts Act, 1887. The impugned judgment is valid and does not suffer from any illegality or perversity. Thus, the question No. 2 is also answered against the defendants revisionist and in favour of the plaintiffs respondents. 50. Thus, I do not find any infirmity in the impugned judgment. Both the Revisions lack merit and, therefore, deserve to be dismissed. 51. In result, both the Revisions fail and are hereby dismissed. Revision Dismissed.