

(1915) 02 AHC CK 0032
In the Allahabad High Court

Muhammad Abdul Karim Khan

APPELLANT

Vs

Afzul Shah

RESPONDENT

Date of Decision : 05-02-1915

Acts Referred:

Citation : (1915) ILR (All) 232

Hon'ble Judges : Piggott, J;Chamier, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Chamier and Piggott, JJ.—This is an appeal against an order of the Additional Subordinate Judge of Aligarh setting aside a decree passed by the Munsif of Bulandshahr and remanding the suit to the Munsif's court to be disposed of according to law. The Munsif had held that the suit was not cognizable by a Civil Court and had on that ground dismissed it. The plaintiff appealed to the District Judge, who transferred the appeal to the first Additional Subordinate Judge for disposal. The latter officer was of opinion that the suit had been rightly instituted in the Civil Court and remanded the case to the Munsif for trial on the merits. In appeal to this Court it is contended that the suit was not cognizable by the Civil Court and that the Subordinate Judge had no power to make the order of remand. It is conceded that if the order of remand had been made by the District Judge, the case would have been covered by Section 197 of the Tenancy Act and no objection could have been taken to the order; but it is contended that the Subordinate Judge had no power to act under that section. The case is covered by the decision in the case of Babu Nandan Prasad v. Changur ILR (1894) All. 363 On the authority of that ruling we must hold that the Additional Subordinate Judge had power to make the order of remand. The appeal fails and is dismissed with costs.