
(2012) 02 AHC CK 0189
In the Allahabad High Court
Case No : Writ - A No. 5473 of 2012

Om Prakash

APPELLANT

Vs

Mohan Lal & Another

RESPONDENT

Date of Decision : 01-02-2012

Acts Referred:

Provincial Small Cause Courts Act, 1887 — Section 18, 25

Citation : (2012) 02 AHC CK 0189

Hon'ble Judges : Dilip Gupta, J

Final Decision : Allowed

Judgement

Dilip Gupta,J.

1. The tenant has filed this petition for setting aside the judgment and decree dated 3rd December, 2011 by which the Revision filed by the landlord against the judgment of the Judge, Court of Small Causes has been allowed and a direction has been issued for eviction of the tenant as he had committed default in payment of rent.

2. It is the contention of Sri M.A. Qadeer, learned Senior Counsel appearing for the petitioner that the monthly rent of shop let out to the petitioner was Rs.3.75 p. per month and this was accepted by the Judge, Court of Small Causes but the Appellate Court completely misread document Paper No.30C and erroneously came to the conclusion that the monthly rent was Rs.30/ per month. He, therefore, submits that the Appellate Court fell in coming to the conclusion that the tenant had committed default in payment of rent. He has also stated that the tenant is now ready to pay damages at the rate of Rs.500/ per month with effect from the date the judgment was delivered by the Revisional Court.

3. The matter requires consideration.

4. Issue notice to the respondents. Steps may be taken within a week.

5. The respondents may file the counter affidavit within a period of six weeks.

Rejoinder affidavit, if any, may be filed within two weeks thereafter.

6. List this petition for admission/hearing in the week commencing 19th March, 2012.

7. In view of the submissions and statement made by learned Senior Counsel for the petitioner, it is ordered that the petitioner shall not be evicted from the shop in dispute till the next date of listing provided the petitioner deposits the entire amount due under the decree within a period of one month from today as also the rent from the date of judgment of the Revisional Court at the rate of Rs.500/ per month and continues to pay Rs.500/ per month. In case of default in any of the conditions mentioned above, the interim order shall automatically stand vacated.