
(2000) 01 AHC CK 0120

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 39654 of 1999

Ram Gopal Verma

APPELLANT

Vs

VII Addl. District Judge, Bulandshrahar and Others

RESPONDENT

Date of Decision : 21-01-2000

Acts Referred:

Provincial Small Cause Courts Act, 1887 — Section 15, 25
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 2(2)

Citation : (2000) 01 AHC CK 0120

Hon'ble Judges : S.N. Agarwal, J

Final Decision : Allowed

Judgement

Sudhir Narain, J.—This writ petition is directed against the order dated 29/1999 passed by Respondent No. 1 whereby he remanded the case to the Judge, Small Causes Court.

2. The plaintiff/respondent filed suit for arrears of rent and ejectment. He has taken the plea that the provisions of U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (in short the Act) were not applicable as the shop in question was constructed in the year 1986 and was assessed for the first time on 14/1986. The trial Court did not accept this version of the plaintiff and dismissed the suit. The plaintiff/respondent filed revision. The Revisional Court has remanded the matter by the impugned order to consider this aspect.

3. I have heard Sri B.D. Mandhyan learned Counsel for the petitioner and Sri Vinod Sinha, learned Counsel for the respondents.

Learned Counsel for the petitioner contended that while remanding the matter, Respondent No. 1, observed in its order that the building shall be deemed to have been constructed on 14/1985 and after having made such observation there was no justification for remanding the matter to the trial Court.

4. I have perused the impugned order and have found that Respondent No. 1,

has made such observation. While remanding the matter, Respondent No. 1 was not justified to express a final view in the matter.

5. Learned Counsel for the petitioner contended that there was no justification to remand the matter as the entire evidence was on the record. The plaintiff had filed the extract of the assessment for 141986 to 1990 (Ext. 2) and the petitioner had filed another assessment list (Ext. A2) for April, 1985 to 1990. The Revisional Court on question of completion of construction could itself have examined the record and record its own finding in respect of the date of completion of the construction. It would have considered the documentary evidence and other relevant evidence on the record.

6. In view of the above the writ petition is allowed. The impugned order is hereby quashed. The Respondent No. 1 shall decide the revision keeping in view the observation made above and in accordance with law possibly within two months.