
(2004) 09 AHC CK 0061
In the Allahabad High Court
Case No : C.M.W.P. No. 19777 of 1986

Ram Lakhan Vishwakarma

APPELLANT

Vs

IInd Additional District Judge and Another

RESPONDENT

Date of Decision : 21-09-2004

Acts Referred:

Citation : (2005) 1 ARC 9

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Judgement

Anjani Kumar, J.—This writ petition was heard by me on 21st September, 2004 and after hearing learned Counsel for the parties, the writ petition was allowed in part of the reasons to be recorded later on. Now here are the reasons.

2. The petitioner, by means of this writ petition, has challenged the order dated 20.10.1986 passed by the Revisional Court whereby the Revisional Court set aside the judgment of the trial Court, allowed the revision and decreed the suit filed by respondent-landlord.

3. The facts leading to this writ petition are that the respondent-landlord filed suit for arrears of rent and eviction of the petitioner-tenant on the ground that the tenant is defaulter in payment of rent. The trial Court dismissed the suit. Aggrieved thereby the landlord filed revision and the Revisional Court set aside the judgment passed by the trial Court and decreed the suit filed by the landlord with cost throughout.

4. Learned Counsel for the petitioner submitted that a perusal of the order passed by the Revisional Court clearly demonstrates that the Revisional Court has exceeded its jurisdiction in decreeing the suit. He relied upon a Division Bench decision of this Court in Laxmi Kishore and Anr. v. Har Prasad Shuklar, 1981 A.R.C. 545. Para 20 of the said judgment is reproduced as under;--

"20. But, if it finds that a particular finding of fact is vitiated by any error of law,

it has power to pass such order as the justice of the case requires; but it has no jurisdiction to reassess or reappraisal the evidence in order to determine an issue of fact for itself. If it cannot dispose of the case adequately without a finding on a particular issue of fact, it should send the case back after laying down proper guidelines. It cannot enter into the evidence, assess it and determine an issue of fact."

5. Learned Counsel for the petitioner demonstrates that the trial Court has reversed the finding arrived at by the trial Court and substituted its own finding and decreed the suit. In giving the aforesaid decision, the Revisional Court has clearly exceeded its jurisdiction.

6. In this view of the matter the order of the Revisional Court deserves to be modified to the extent that the revision is allowed the matter is remanded back to the trial Court for decision afresh in accordance with law and in the light of the observations made in the judgment of the Revisional Court:

7. The writ petition succeeds and is allowed in part. The order of the Revisional Court is set aside to the extent that the operative portion of the order of the Revisional Court Would be as under:

"The revision is allowed. The matter is remanded back to the trial Court for decision afresh in accordance with law and in the light of observations made in the judgment of Revisional Court."