
(2000) 05 AHC CK 0176
In the Allahabad High Court
Case No : C.M.W.P. No. 25591 of 2000

Smt. Vimala alias Urmila	Vs	APPELLANT
VIth Addl. District Judge, Jhansi and others		RESPONDENT

Date of Decision : 24-05-2000

Acts Referred:

Constitution of India, 1950 — Article 226
Provincial Small Cause Courts Act, 1887 — Section 25

Citation : (2000) 3 AWC 2223 : (2000) AWC 2223

Hon'ble Judges : A.K. Yog, J

Bench : Single Bench

Advocate : Harish Chandra Mishra, for the Appellant;

Final Decision : Dismissed

Judgement

A. K. Yog, J.—This is defendant's petition, who was tenant of a certain accommodation.

2. Plaintiffs--Arun Kumar Khare and Anand Kumar Khare/Respondent Nos. 3 and 4, filed Suit No. 126 of 1996 (Annexure-1 to the writ petition). Defendant filed written statement.

3. Parties led evidence.

4. Defendant (present petitioner), however, filed an application dated 4th February, 1999, for issuing commission to inspect the accommodation in question so as to submit his report regarding the age of the construction in question (Annexure-3 to the writ petition). Plaintiff filed objections (Annexure-4 to the writ petition).

5. Judge Small Causes Court considered the application for issuing commission (Paper No. 45C), and considering the relevant circumstances and the objections raised by the other side rejected the said application vide judgment and order dated 13th May. 1999. (Annexure-5 to the writ petition).

6. Defendant, not being satisfied, filed J.S.C. Revision No. 3 of 2000, purported to be u/s 25. Small Causes Court Act. The said revision has also been dismissed by means of the impugned judgment and order dated 8th May, 2000, (Annexure-6 to the writ petition).

7. Heard learned counsel for the parties and perused the averments contained in the writ petition and the grounds contained in Para 15 of the petition.

8. After hearing learned counsel for the petitioner. I do not find that the petitioner can successfully establish any of the legal grounds contained in the writ petition.

9. At the very outset, it may be mentioned that no revision lay u/s 25. Provincial Small Causes Court Act against an order refusing to issue commission.

10. I find no manifest error apparent on the face of record warranting interference under Article 226. Constitution of India particularly when the Court below found that there was no necessity for Issuing commission as issuing commission regarding age of the construction could be decided on the basis of the evidence led by the parties.

11. The trial court has categorically observed at p 20, of the Writ Paper Book that application 45C was filed as a device to delay proceedings. No submission has been made on this aspect nor any explanation has come as to why application was filed at a belated stage.

12. It is, accordingly, dismissed.

13. In view of the above, writ petition lacks merits.

No order as to costs.