
(2001) 07 AHC CK 0128

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 29676 of 2000

Vishnu Chandra Agrawal

APPELLANT

Vs

Incharge District Judge, Etah and Others

RESPONDENT

Date of Decision : 12-07-2001

Acts Referred:

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 —
Section 20(2)(a)

Citation : (2001) 07 AHC CK 0128

Hon'ble Judges : R.H.Zaidi, J

Final Decision : Disposed Of

Judgement

R.H. Zaidi, J.—Heard learned Counsel for the parties and also perused the record.

By means of this petition filed under Article 226 of the Constitution of India petitioner challenges the validity of the order dated 652000 whereby the application filed by the petitioner to decide the question of jurisdiction before proceeding further in the case was rejected by the Respondent No. 2, the Civil Judge (Junior Division), Etah and the order dated 2752000 whereby the revision filed by the petitioner against the order passed by the trial Court was dismissed.

2. It appears that a suit was filed by Respondent No.3 for ejectment of the petitioner and for recovery of the rent and damages. In the said suit, petitioner filed an application for returning the plaint for presentation before the proper Court. According to the petitioner, Civil Court had no jurisdiction to decide the suit. The suit was cognizable by Judge, Small Causes Court. The said application was objected to and opposed by the Respondent No.3. It was contended that the suit was cognizable by the Civil Court. There was, therefore, no question of returning the plaint. The trial Court, after hearing the Counsel for the parties, dismissed the application with the observation that issue No. 4 involved the question of law and fact therefore, the same cannot be decided without evidence, oral and documentary of the parties. He consequently, by order dated 652000, dismissed the application. Challenging the validity of the said order, revision was

filed which was also dismissed, hence the present petition.

3. Learned Counsel for the petitioner vehemently urged that there existed a building in the land in dispute and the petitioner was the tenant of the building as well as the land appurtenant to it, therefore, the Civil Court had no jurisdiction to entertain the suit. Learned Counsel appearing for the contesting respondent concedes that the question of jurisdiction can be decided as a preliminary issue.

4. In view of the aforesaid facts, this petition is disposed of finally with the direction to Respondent No. 2 to decide the question of jurisdiction before deciding the other issues framed in the suit after parties produce evidence in support of their cases, oral or documentary.

5. It is further provided that the issue regarding jurisdiction of the Court shall be decided by the trial Court after giving full opportunity of hearing to the party to produce evidence expeditiously preferably within a period of four months from the date a certified copy of this order is communicated to him.

With these observations and directions, this writ petition stands finally disposed of.