

Uma Shanker Srivastava (D.) through L.Rs. Vs Ist A.D.J. and Others

Court: Allahabad High Court

Date of Decision: Aug. 6, 2004

Acts Referred: Civil Procedure Code, 1908 (CPC) " Order 15 Rule 5
Provincial Small Cause Courts Act, 1887 " Section 25

Citation: (2005) 1 AWC 784(1)

Hon'ble Judges: Anjani Kumar, J

Bench: Single Bench

Advocate: S.C. Srivastava and S.M. Chaturvedi, JJ, for the Appellant; D.P. Bahadur, S.C., for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Anjani Kumar, J.

The petitioner-tenant aggrieved by the decree passed by the trial court whereby the trial court has decreed the suit filed by the landlord for arrears of rent and eviction of the petitioner-tenant from the disputed accommodation, approached the revisional court u/s 25 of

the Provincial Small Causes Courts Act, 1887. The revisional court maintained the order of the trial court.

2. Learned counsel for the petitioner submitted that since in the writ petition he has denied the title of the landlord therefore, the plaint should have

been returned back to the plaintiff for its presentation before the regular side and that not been done so, the suit is wrongly decreed. It is admitted

fact that since the petitioner-tenant has not complied with the Order XV Rule 5 of the Code of Civil Procedure, his defence was struck off and the

order striking off the defence under Order XV, Rule 5 of the CPC has not been challenged by the petitioner. The findings recorded by the trial

court clearly demonstrates that the plea that the plaintiff is not landlord can be decided by the trial court and trial court has not committed any error

in arriving at the conclusion that the plaintiff is the landlord. So far as the finding regarding default is concerned, this being finding of fact cannot be

interfered with by this Court. No other point was argued.

3. In this view of the matter, this writ petition is dismissed. Interim order, if any, stand vacated.