



2025 INSC 584

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). /2025
(ARISING OUT OF SPECIAL LEAVE PETITION (C) No. 8929/2024)

AMIT KUMAR

APPELLANT(S)

VERSUS

NIHAL SINGH & ORS.

RESPONDENT(S)

O R D E R

Leave granted.

2. On perusal of the Office Report dated 22.04.2025, it is noted that respondent Nos.1 and 3 were served on 03.05.2024 and respondent No.2 was again served on 13.09.2024. However, there is no appearance on behalf of the said respondents. Hence, they are placed *ex parte*.

3. Briefly stated, the facts of the case are that the appellant, along with respondent No. 3, had purchased the suit schedule property situated at Khasra No. 13/2 in Village of Nagla Bhambhu Jaat, Tehsil Sasni, District Hathras, from Smt. Satyawati Devi under a registered sale deed dated 12.08.1997. The respondent No. 1 was a tenant on the property and it was rented to him to run a service station. Therefore, he possessed a room, a shed, a water tank, etc. on the rented property which he had constructed. The monthly rent that used to be paid by respondent No. 1 was Rs. 500/- (Rupees Five Hundred only). But since March 2021, the respondent No. 1 had stopped paying the

monthly rent. In June 2021, the appellant got to know that the respondent No. 1 had sub-let the property to respondent No. 2 and therefore he was making an unlawful gain from the property and depriving the appellant of the monthly rents.

4. The appellant and respondent No. 3 then filed a suit being Small Cause Case No. 8/01 before the Court of Civil Judge (Jr. Div.) Hathras, seeking the eviction of respondent Nos. 1 and 2 from the schedule property and recovery of the arrears of rent and damages. By order dated 10.07.2019, the Small Causes Judge, Hathras decreed the suit and directed respondent No. 1 to hand over possession of the disputed suit schedule property to the appellant and to pay the arrears of rent for the period from 01.03.2021 to 07.07.2021 at the rate of Rs. 500/- (Rupees Five Hundred only) per month.

5. Being aggrieved by the decree dated 10.07.2019, the respondent Nos. 1 and 2 filed a revision petition being Small Cause Revision No. 16/2019 before the Court of Additional Sessions Judge, Hathras. The said revision petition was allowed by the Revisional Court on 25.05.2023 and the matter was remanded to the trial court to be decided afresh by hearing both parties. The Revisional Court held that the trial court has to first decide the issue if the schedule property is an open land, on the basis of which it will be decided if the Small Causes Court has the jurisdiction to decide the suit.

6. Being aggrieved by the order dated 28.10.2023, the appellant and respondent No. 3 filed a petition under Article 227 of the Constitution of India before High Court of Judicature at Allahabad. By the impugned order dated 28.10.2023, the High Court has upheld the findings of the Revisional Court to the extent of remanding the matter to the trial court to decide as to, whether, the schedule property was an open land and accordingly if the Small Causes Court had the jurisdiction to decide the suit. The present appeal has therefore been filed by the appellant to challenge the impugned order dated 28.10.2023 passed by the High Court in Matters Under Article 227 No. 8579 of 2023.

7. Since there has been no representation on behalf of the respondents who have been placed *ex-parte*, we have heard learned senior counsel appearing for the appellant only.

8. Learned senior counsel submitted that the Revisional Court as well as the High Court were not right in remanding the matter to the Trial Court by setting aside the judgment and decree of the Trial Court so as to decide on point No.2 contained in 'paragraph 12' of the Revisional Court's order inasmuch as the dispute as to whether the schedule property was open land or not had to be adjudicated upon afresh.

9. Learned senior counsel for the appellant submitted that the entire controversy raised by the respondents-defendants was wholly unwarranted inasmuch as in 'paragraph 18' of the

written statement of the respondents-defendants, it was categorically stated that there were several structures on the disputed plot and therefore it cannot be considered to be an open land simpliciter so as to raise an issue to the effect that the Small Causes Courts had no jurisdiction to entertain the suit.

10. He drew our attention to 'paragraph 18' of the written statement filed by the respondents/defendants (Annexure P-4 of the memorandum of the Special Leave Petition) and contended that in view of the categorical admission made by the respondents herein, the controversy did not arise at all. In the circumstances, learned senior counsel for the appellant contended that the U.P. Act No. 13 of 1972 relied upon by the Revisional Court was not applicable and the suit for eviction was maintainable.

11. In this regard it was submitted that U.P. Act No.13 of 1972, called the Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 applies only to urban properties whereas the suit scheduled property is in a rural area. In this regard, our attention was drawn to the aforesaid Act. It was contended that the categorical admission made on behalf of the respondents herein would imply that the suit for eviction was maintainable before the Small Causes Court, Civil Judge, Hathras which has rightly decreed the suit. Therefore, the order of the High Court affirming the order of the Revisional Court as well as the order of the Revisional Court

may be set aside and the judgment and decree of the Trial Court may be given effect to.

12. We have considered the submissions of learned counsel for the appellant in light of the material on record. We find that the appellant herein had purchased the suit schedule property under a registered sale deed dated 12.08.1997, from one Smt. Satyawati Devi; defendant No.1 was the tenant of the property consisting of a room, a shed, a water tank, etc. The monthly tenancy was Rs. 500/- (Rupees five hundred only). Defendant No. 1 had paid the rents till 28.02.2001, after which the tenancy was used as a service station. From 01.03.2001 onwards, the appellant has not received rents.

13. In the circumstances, the appellant was constrained to file Small Causes Case No. 8/2001 seeking the relief of arrears of rents as well as the eviction of the tenants from the suit schedule property; that in the said suit as noted above, the defendants have admitted the fact that the property in question had construction as well as there was land appurtenant thereto. Paragraph 18 of the written statement of the defendants reads as under:

"18. That on the disputed plot, several structures have been erected, including a solid built room, a water tank, a service station, and two steps. Additionally, a jet pump has been installed, and an approved electricity connection is registered under the name of defendant No.1. Furthermore, the surrounding foundation has been completely filled."

14. When there has been an admission on the part of the defendants/respondents herein that the suit schedule property consisted of a room, a water tank, a service station and a jet pump installed with electricity connection which was being used for the purpose of washing of vehicles, then it cannot be said that the suit schedule property was an open land as such.

15. Since the Trial Court had adjudicated the suit and had granted the decree in favour of the appellant herein by directing the eviction of the tenants/defendants/respondents, issue No.2 raised in the Revision Petition filed by them being Revision Small Causes No.16/2019 was wholly otiose. This was because all that the Revisional Court had to note was whether the decree granted by the Trial Court was just and proper or not. When the respondents herein had not raised any jurisdictional issue with respect to the jurisdiction of the Small Causes Courts to entertain the suit, in the face of the categorical admission made by them in paragraph 18 of their written statement, issue No.2 raised was unnecessarily raised. On that point, the matter was remanded to the Trial Court which order has been affirmed by the High Court in the impugned order.

We find that in the facts and circumstances of this case, raising of the said issue was wholly unnecessary and the correctness or otherwise of the decree only had to be seen. In view of the admission of the respondents herein, we do not think that any issue touching upon the jurisdiction of the

Small Causes Court to adjudicate the suit arose at all.

16. In the circumstances, we set aside the impugned order of the High Court, which has affirmed the order the Revisional Court. Consequently, the judgment and decree of the Trial Court is sustained.

17. The respondents/defendants are directed to handover vacant possession of the suit schedule property to the appellant herein on or before 31st October, 2025.

During the said period, the respondents shall not cause any damage to the said property. They shall not create any third-party interest; they shall pay the rents and arrears of rents as decreed in the suit.

18. In the event there is any failure on the part of the respondents to comply with the aforesaid conditions, then liberty is reserved to the appellant herein to seek execution of this order.

This appeal is allowed and disposed of in the aforesaid terms.

Pending application(s), if any, shall stand disposed of.

....., J.
(B.V. NAGARATHNA)

....., J.
(SANJAY KAROL)

NEW DELHI;
APRIL 23, 2025.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 8929/2024
[Arising out of impugned final judgment and order dated 28-10-2023
in MUA227 No. 8579/2023 passed by the High Court of Judicature at
Allahabad]

AMIT KUMAR

Petitioner(s)

VERSUS

NIHAL SINGH & ORS.

Respondent(s)

(IA No. 85876/2024 - EXEMPTION FROM FILING O.T.)

Date : 23-04-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE SANJAY KAROL

For Petitioner(s) Mr. C. Mohan Rao, Sr. Adv.
Mr. K. B. Upadhyay, Adv.
Mr. Shailesh Tiwari, Adv.
Mr. Raja Ram Tripathi, Adv.
Ms. Kalpana, Adv.
Mr. Pushkar Anand, AOR

For Respondent(s) :

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed and disposed of in terms of
the signed non-reportable order which is placed on the
file.

Pending application(s), if any, shall stand disposed
of.

(RADHA SHARMA)
ASTT. REGISTRAR-cum-PS

(DIVYA BABBAR)
COURT MASTER (NSH)