

Ram Padarath vs Parsotam And Ors. on 24 July, 1953

Equivalent citations: AIR1954ALL50, AIR 1954 ALLAHABAD 50

ORDER

Desai, J.

1. The opposite party filed a suit in a revenue Court for a declaration that he is a tenant. The revenue Court held that the suit did not lie in that Court because though the landlord had been made a defendant to the suit no allegations had been made against him. It directed the plaint to be returned to the plaintiff (the opposite party) for presentation in a Civil Court.

2. The plaintiff filed an appeal against that order which was heard by the Civil Judge. The learned Civil Judge held that the suit was cognizable by the revenue Court and, allowing the appeal, ordered it to receive the plaint and hear the suit. This application in revision is filed against the order of the learned Civil Judge under S. 276, U. P. Tenancy Act.

3. The revision application is not entertainable because no question of jurisdiction is involved at all. It is not contended that the learned Civil Judge had no right or jurisdiction to hear the appeal. He is not said to have acted with any irregularity while hearing it. What is questioned is the correctness of his finding that the revenue Court has jurisdiction to hear the suit, and nothing else. This does not entitle the applicant to come in revision. The view taken by the learned Civil Judge may be wrong or erroneous but that itself would not give the applicant a right to come upon revision under S. 276, U. P. Tenancy Act.

The question before this Court is not of the jurisdiction of the learned Civil Judge but of that of the revenue Court, whereas the question of jurisdiction on account of which an application for revision will lie on this court is that of the jurisdiction of the Court against an order of which the revision application is filed. Had there been any question about the jurisdiction of the learned Civil Judge a revision application could He in this Court but there is no such question. The learned Civil Judge has not refused to exercises jurisdiction vested in him, has not exercised jurisdiction not vested in him and has not acted with any irregularity while exercising his jurisdiction. Section 276, U. P. T. Act, therefore, does not apply and the revision application is rejected as not competent.