

Piare Lal vs Ram Swaroop And Anr. on 13 October, 1952

Equivalent citations: AIR1953ALL490, AIR 1953 ALLAHABAD 490

ORDER

Chaturvedi, J.

1. This is a plaintiff's application in revision from, the order of the learned Judge Small Cause Court, Aligarh dated 29-3-1950. The order under revision is to the effect that the property attached was to be released and returned to the defendant. It proceeds "If the plaintiff took possession when the Amin attached the goods it will be returned to the defendant and he will be put in possession as before."

2. The learned counsel, Mr. A. P. Gupta, appearing on behalf of the applicant has assured me that the only property that was ordered to be attached, and which was actually attached, was some movable property left by the defendant in one or other of the rooms of the house. The house belongs to the applicant and it appears that he had got the movables attached, in a suit for recovery of certain arrears of rent. The amount of the suit was subsequently deposited in court and therefore the attached property was ordered to be released by the order under revision. This order does not say that the possession of the house also was to be returned to the defendant, nor could it possibly say so. What was attached was only movable property and that could only be returned, in obedience to the order under revision. There could be no question of returning possession of the house itself or any portion of the house. In case, the order meant that the possession of the house also, was to be returned, the order was without jurisdiction and wholly unenforceable.

3. The portion of the order, which I have quoted, is capable of being interpreted so as to include the returning of the possession of the house also. I, accordingly, modify that order and direct that only the movable properties which were attached, were to be returned to the defendant; but possession of no portion of the house itself was to be delivered to the defendant. I, accordingly, modify the order in revision as indicated above.

4. The opposite parties are not represented before me, and I make no order as to costs of this revision.