

# Har Dayal Singh vs Ram Ujagar Dube on 18 October, 1954

**Equivalent citations: AIR1955ALL416, AIR 1955 ALLAHABAD 416**

**Author: Raghubar Dayal**

**Bench: Raghubar Dayal**

## JUDGMENT

Raghubar Dayal, J.

1. This is a reference under Order 46, Rule 1, Civil P.C., by the Judge, Small Causes, Saharanpur
2. The plaintiff instituted a suit in the Court of the Munsif Saharanpur for the recovery of Rs. 124 as arrears of rent in respect of the accommodation in house No: 86/3 situate at Lucknow. The defendant did not reside at Saharanpur. The suit was instituted in Saharanpur because according to the plaintiff the defendant lessee had agreed to pay rent at the place of the plaintiff's posting. The plaintiff happened to be posted at Saharanpur & therefore he instituted the suit there. The defendant contended that the Saharanpur. Court had no jurisdiction to entertain this suit. The learned Munsif felt doubt on the legal position with respect to the jurisdiction, of the Court and, therefore, made this reference.
3. The suit would be cognisable by a Court at Saharanpur in view of Section 20, Clause (c), Civil P.C., as part of the cause of action would arise at Saharanpur on account of the lessee-defendant's agreement to pay rent at the place where -the plaintiff happened to be posted at any particular time. The question is whether Section 16, Civil P.C. would cover this suit, and the learned Munsif seems to think that Section 16, Clause (d), may include this suit. Section 16, Clause (d) is: "Subject to the pecuniary or other limitations prescribed by any law, suits for the determination of any other right to, or interest in, immovable property, shall be instituted in the Court within the local limits of whose jurisdiction the property is situate."

A suit merely for the recovery of rent from a lessee of immovable property cannot be said to be a suit "for the determination of any other right to or interest in immovable property". The rights which have been specifically mentioned in Clauses (a), (b) and (c) of Section 16 are the rights to the recovery of immovable property with or without rent or profits, to the partition of immovable property and to foreclosure, sale or redemption in the case of a mortgage or charge upon immovable property. No question of the determination of the plaintiff's right to the house arises on the allegations in the plaint. Even if the defendant challenges the plaintiff's right to the house in suit, his contention will not determine the forum. We are, therefore, of opinion that the suit for the recovery of rent of immovable property is not covered by Section 16, Civil P.C.

4. In view of the above we hold that this suit is maintainable in the Court at Saharanpur. The reference is answered accordingly.