

B.N. Khosla vs S.L. Nayar on 23 September, 1955

Equivalent citations: AIR1956ALL131, AIR 1956 ALLAHABAD 131

ORDER

V.D. Bhargava, J.

1. This is a plaintiff's application in revision. The plaintiff brought a suit against the opposite party for arrears of rent on account of a house of which the plaintiff was the owner and the opposite party was the tenant. Both the parties have come from the Punjab. The plaintiff resides in Dehra Dun while the opposite party resides at Jullundhar. The suit was filed in the Court of small causes and has been dismissed on account of want of jurisdiction in that Court.

The learned Judge did not consider at all the applicability of the Displaced Persons (Institution Of Suits) Act of 1947. Under Section 4(ii) of this Act the plaintiff was entitled to bring the suit at Dehra Dun because the cause of action had arisen only at Lahore, which is now situate in the West Pakistan.

2. Learned counsel for the opposite party relied on Section 4 Clause (ii) of the Act and urged that the suit related to an immovable property and, therefore, Section 4 will not apply. I am of opinion that the suit does not relate to immovable property. The suit relates to realisation of rent and is now a money suit.

The rent itself which is due certainly related to an immovable property but a suit for rent can always be filed in the Small Cause Court though no suit for immovable property can be filed there. The suit for rent of an immovable property is not a suit relating to the immovable property.

3. I, therefore, set aside the decree passed by the learned Judge Small Cause Court and remand the suit to his Court with the direction that the suit shall be restored to its original number and heard on merits.

4. The application in revision is accordingly allowed with costs.