

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Saghir Abbas Vs. 7th Additional District Judge, Kanpur Nagar and anr.

Saghir Abbas Vs. 7th Additional District Judge, Kanpur Nagar and anr.

SooperKanoon Citation : sooperkanoon.com/474214

Court : Allahabad

Decided On : Apr-03-2002

Reported in : 2002(2)AWC1642

Judge : Anjani Kumar, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : C.M.W.P. No. 28709 of 2001

Appellant : Saghir Abbas

Respondent : 7th Additional District Judge, Kanpur Nagar and anr.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : A.C. Tiwari, Adv.

Disposition : Writ petition dismissed

Judgement :

Anjani Kumar, J.

1. Heard learned counsel appearing on behalf of the petitioner and the learned standing counsel.

2. By means of the present writ petition under Article 226 of the [Constitution of India](#), petitioner has challenged the order dated 3.4.2001 passed by VIIIth Additional District Judge, Kanpur Nagar in Revision No. 118 of 1992. Annexure-7 to the writ petition, whereby the revisional court setting aside the order passed by the trial court dated 5.2.1992 remanded back the matter to the trial court to decide the matter in accordance with the directions of the judgment of this Court. Earlier to the present revisional order, the petitioner had approached this Court by means of Writ Petition No. 9330 of 1998 decided on 19.2.1999, in which this Court in the operative portion has held as under :

'In view of the above, the writ petition is allowed and the impugned order dated 17.2.1997 is hereby quashed. Respondent No. 1 shall hear the revision afresh in accordance with law. In case he finds that the material evidence has been ignored while deciding an issue or certain points have not been decided. It can record a finding indicating therein a reasonable ground for remand. Respondent No. 1 shall decide the revision within a period of three months from the date of production of a certified copy of this order.

Considering the facts and circumstances, the parties shall, however, bear their own costs.

Dated : 19.2.1999,

Sd.

Hon. Sudhir Narain. J.'

3. In view of the aforesaid directions, the revisional court has recorded a categorical finding that the question as to whether the tenant has complied with the provisions of Sections 30 (11 and 20 (4) of the U. P. Act No. XIII of 1972 or not and, therefore, it is a case for interference under the revisional Jurisdiction. The decree passed by the court below has been set aside and the matter has been remanded back to the trial court. Learned counsel for the petitioner stated that the revisional court should have decided the matter as the entire evidences were already on record. This argument of petitioner's counsel cannot be accepted in

view of the matter that the revisional court was deciding the matter in pursuance of the directions issued by this Court passed in Writ Petition No. 9330 of 1998, decided on 19.2.1999. It is only when the revisional court arrived at the findings as directed by this Court that this matter should have been remanded back and the questions, which have been raised by the revisional court to be decided by the trial court. No other argument was advanced by the learned counsel for the petitioner.

4. In this view of the matter that, the revisional court has decided the matter pursuant to the directions issued by this Court, no interference at this stage with the remand order is warranted by this Court under Article 226 of the [Constitution of India](#). The writ petition being devoid of any merits it is accordingly dismissed. However, the parties shall bear their own costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com