

Amjad Ali Vs. Abdul

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Court : Rajasthan

Decided On : Apr-28-1998

Reported in : 1998(1)WLN347

Judge : Bhagwati Prasad, J.

Appeal No. : S.B. Civil Revision No. 701 of 1997

Appellant : Amjad Ali

Respondent : Abdul

Judgement :

Bhagwati Prasad, J.

1. In this case the case of the revisionist is that he had made an application under Section 5 of Limitation Act, which has not been finally adjudicated by the Courts below.

2. The counsel for the respondents was asked to point out finding in the matter. At the initial stage, he has read the operative portion of the order but he could not point out any finding. Then the learned Counsel took the liberty of reading the whole judgment and read it, then too he could not point out, that there was any finding of the Courts below for rejecting the application under Section 5 of the Limitation Act. This Hon'ble Court by a Full Bench Judgment reported in 1998 (1)

WLC 325 (L.B), Sita Ram Agarwal v. Nasiruddin, has held that Section 5 Limitation Act has application in rent control matters. In view of the law laid down by this Court, it was necessary for the Courts below to have finally adjudicated the application under Section 5 of Limitation Act. The Courts have committed material irregularity in not deciding the application under Section 5 of the Limitation Act. The orders impugned are set aside. The case is remanded back to the trial Court to first adjudicate application under Section 5 Limitation Act then decide the application for striking off the defence. The non-petitioner shall pay the cost of Rs. 1000/- to the petitioner.

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