Court No. - 4

Case :- S.C.C. REVISION No. - 127 of 2023

Revisionist :- Nitin Sharma
Opposite Party :- Smt. Anju Saxena
Counsel for Revisionist :- Dharmesh Kumar Shukla,Devesh Kumar Shukla
Counsel for Opposite Party :- Atul Tej Kulshrestha,Anil Kumar Chaudhary

Hon'ble Prakash Padia,J.

1. The present revision has been filed inter-alia with the prayer to set aside the order dated 21.07.2023 passed in Misc. Case No.02 of 2023 (Nitin Sharma Vs. Smt. Anju Saxena) and ex-parte order dated 29.09.2022 passed in S.S. Case No.07 of 2021 (Smt. Anju Saxena Vs. Nitin Sharma) passed by District Judge, Aligarh.

2. The facts in brief as contained in the revision is that the revisionist is a tenant in respect of house No.18/26 Sarai Bala, Jai Ganj, Tehsil-Koil, District Aligarh on monthly rent of Rs.15,000/- per month plus 8% water tax and 4% drainage charges and Rs.1,000/- electricity charges. The suit was filed by the opposite party/landlord being SCC Revision No.07 of 2021 for ejectment of the revisionist from the house in question. The aforesaid suit was ex-parte decreed in favour of the plaintiff-respondent vide order dated 29.09.2022. Since the aforesaid order was passed in an ex-parte manner an application under Order 9 Rule 13 read with Section 151 C.P.C. was filed by the petitioner in the court of District Judge/J.S.C.C., Aligarh, which was numbered as Misc. Case No.02 of 2023. Along-with the said case an application under Section 17 of the Provincial Small Causes Court Act was also filed. The application filed under Order 9 Rule 13 was rejected by the court below vide its order dated 21.07.2023 hence the present petition.

3. It is argued by the counsel for the revisionist that the publication of the summons were made in the local evening newspaper 'Amar Prakash', which newspaper is not circulation in the area. It is further argued that the order passed by the court below is absolutely illegal and the findings recorded in the order impugned is absolutely perverse hence the order dated 21.07.2023 is liable to be set aside.

4. On the other hand it is argued by Shri Dinesh Kumar Singh, Advocate, holding brief of Shri Anil Kumar Chaudhary, learned counsel for the respondents that the order passed by the court below is perfect and valid order and does not call for any interference.

5. When the query was raised by this Court, regarding the circulation of the newspaper, 'Amar Prakash', it is very fairly argued that the aforesaid news paper has no proper circulation in the area in question.

6. After the aforesaid arguements were raised it is very fairly argued by the counsel for the respondents that he has no objection in case the order impugned namely the order dated 21.07.2023 passed in Misc. Case No.02 of 2022 is set aside and the court below is directed to pass fresh order expeditiously.

7. In the facts and circumstances of the case, as stated above the order dated 21.07.2023 passed by the District Judge, Aligarh in Misc. Case No.02 of 2023 is set aside. The District Judge, Aligarh is directed to pass a fresh order strictly in accordance with law after taking into consideration all the aspect of the matter expeditiously and preferably within a period of six months from the date of production of certified copy of this order.

8. Accordingly, present revision is allowed.

Order Date :- 7.11.2023
Pramod Tripathi

Digitally signed by :-
PRAMOD TRIPATHI
High Court of Judicature at Allahabad