



2025:AHC:177899

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 2433 of 2019

Bhala Ram

.....Petitioner(s)

Versus

Smt. Savitri Devi And 7 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Pradeep Kumar (Senior Adv.), Praveen Kumar
Counsel for Respondent(s)	:	Kamlesh Kumar Tiwari

Court No. - 18

Reserved On:17.9.2025

Delivered On:8.10.2025

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. Pradeep Kumar, learned Senior Counsel assisted by Mr. Onkar Nath Vishwakarma, learned counsel for the petitioner and Mr. Kamlesh Kumar Tiwari, learned counsel for respondents.

2. Brief facts of the case are that SCC suit no.12 of 1984 filed by plaintiff- Jugraj Singh for arrears of rent and ejectment of defendant - Lala Ram from the accommodation in question. The aforementioned SCC suit was decreed by the Judge Small Cause vide judgement and decree dated 29.7.1985. Defendant-Lala Ram filed SCC Revision No.164 of 1985 before the District Judge. The aforementioned revision was heard and allowed by the 3rd Additional District Judge/ EC Act, Jhansi vide judgement dated 21.12.1988 setting aside the judgement of Judge Small Cause and directed that plaint be returned for presentation before regular Court. Against the judgement of revisional Court dated 21.12.1988, plaintiff-petitioner filed a writ petition no.4798 of 1989 before this Court. The aforementioned writ petition was dismissed vide judgement dated 5.11.2012. After the judgement of this Court dated 5.11.2012, plaintiff-petitioner initiated proceeding before Judge Small Cause for returning the plaint for presentation before proper Court. In the aforementioned

proceeding report was submitted by the record room that file of SCC suit no.12 of 1984 has been weeded out on 3.6.1999 under Rule 196 of General Rule Civil. Judge Small Cause vide order dated 20.1.2018 passed an order that the proceeding be consigned as record of SCC Suit no.12 of 1984 has been weeded out on 3.6.1999. The aforementioned application of the petitioner was registered as Misc. Application No.13 of 2018 (Bhala Ram Vs. Additional District Judge/ Special Judge (EC Act), Jhansi. The Judge Small Cause vide order dated 14.11.2018 disposed of the aforementioned application / case of the petitioner and consigned the records. Petitioner challenged the order dated 14.11.2018 passed by Judge Small Cause in revision which was registered as SCC Revision No.41 of 2019. The aforementioned revision was heard and dismissed by the District Judge vide order dated 2.1.2019. Hence this writ petition for the following reliefs:

"i. to set aside the order dated 2.1.2019 (Annexure No.1 to the petition) passed by District Judge, Jhansi.

ii. to set aside the order dated 14.11.2018 (Annexure No.10 to the petition) passed by Judge Small Causes Court/ Additional Civil Judge (Senior Division), Jhansi.

iii. to direct the District Judge and Civil Judge Small Cause Court, Jhansi to reconstitute the record of SCC Suit No.12 of 1984, Jugraj Singh vs. Lala Ram within the reasonable time fixed by this Hon'ble Court."

3. Learned Senior Counsel for the petitioner submitted that the Judge Small Cause and revisional Court have failed to exercise their jurisdiction to reconstitute the record of SCC Suit in accordance with law. He further submitted that plaintiff-petitioner is having the copies of the document / orders of SCC Suit, as such, the record of SCC Suit no.12 of 1984 can be reconstituted according to the provisions contained under the law. He further submitted that both the impugned orders should be set aside and District Judge/ Civil Judge Small Cause Court be directed to reconstitute

the record of SCC Suit No.12 of 1984 in accordance with law. He further placed reliance upon the judgement of this Court reported in 2009 (108) RD 800, Radhey Shyam vs. Deputy Director of Consolidation and others in support of his argument.

4. On the other hand, learned counsel for the respondents submitted that no interference is required in the matter. He further submitted that record of the SCC suit has been rightly weeded out according to the provisions contained under the General Rule Civil, as such, there is no illegality in the impugned orders passed by the Judge Small Cause and the revisional Court.

5. I have considered the argument advanced by learned counsel for the parties and perused the records.

6. There is no dispute about the fact that SCC suit filed in the year 1984 has been decided by the Judge Small Cause vide judgement dated 29.7.1985 and revision filed by plaintiff was allowed vide judgement dated 21.12.1988 directing the Judge Small Cause to return the plaint for presentation before the proper Court. There is also no dispute about the fact that writ petition filed by plaintiff- Bhala Ram was dismissed by this Court. There is also no dispute about the fact that record of the SCC Suit No.12 of 1984 has been weeded out on 3.6.1999. There is also no dispute about the fact that the application filed by the plaintiff-petitioner- Bhala Ram for reconstituting the record of SCC suit no.12 of 1984 has been decided with the observation that record of the SCC Suit No.12 of 1984 has been weeded out, as such, no steps can be taken in the matter.

7. In order to appreciate the controversy involved in the matter, perusal of provisions contained under General Rule Civil will be relevant, which is as under:

"196. Preservation and destruction of files.—(1) File A-1 shall be permanently preserved except in cases under the following Acts when the papers shall be destroyed after the expiration of the period shown

against each :

(a) Act XXXIX of 1925—20 years.

(b) Act VIII of 1890-36 years.

(2) File A-2 shall be destroyed at the end of 30 years from the date of institution of the original suit or case.

(3) File B shall be destroyed at the end of 20 years from the date of institution of the original suit or case, except in cases under the Provincial Insolvency Act, where the file shall be destroyed after 12 years from the date of the grant of discharge, or where no order of discharge has been passed from the date of last order passed in the case.

(4) File C shall be destroyed at the end of 15 years from the date of institution of the original suit or case, except that :

(a) in cases under the Provincial Insolvency Act, the file shall be destroyed after 12 years from the date of the grant of discharge, or, where no order of discharge has been passed from the date of the last order passed in the case; and (b) in cases affected by Section 5 of the Temporary Postponement of Execution of Decrees Act (Act X of 1937) the file shall be destroyed after 18 years.

(5) File D, whether of Part I or Part II shall be destroyed at the end of three years from the date of institution of the original suit or case.

(6) In all cases, where file D of Part I or Part II has not been so destroyed or has for any reason been revived the surviving or revived file D shall be destroyed at the same time along with file C; in all cases where file D, whether of Part I or Part II has again survived or been revived, such surviving or revived portion shall be destroyed along with file B :

Provided always that Judge may at the termination of a suit or of any application for execution by a decree-holder, pass an order directing that for reasons to be recorded on the order-sheet, the papers in file C be kept for a longer specified period :

Provided also that no part of a record shall be destroyed until after the expiration of one year in addition to the time allowed for filing an appeal, even though the period prescribed for weeding under this rule has elapsed since the date of institution of the original suit or case :

Provided further that the Appellate Court shall, as soon as an appeal is presented, send intimation thereof to the Court against whose decree the appeal has been filed, and on receipt of such information, the Presiding Officer of such Court shall forthwith issue instructions to the record-keeper not to weed out any paper so long as the appeal is not finally disposed of.

File D in the record of any miscellaneous case not relating to a suit or other case shall be destroyed at the end of one year from the date of final order.

(7) The record of cases instituted under Section 472 of the Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959 (U.P. Act No. 2 of 1959), shall be weeded out after six years from the date of final order.]

(8) Bahikhatas and other account books, whether included in file A-1, file B or file C, may be destroyed under the orders of the District Judge after three years from the date of the final decree of the Court of first instance or of appeal, as the case may be, where the party who files such account books cannot be traced or where such party has been given at least one month's notice to apply for the return of such account books and has failed to do so.

In cases of doubt the record-keeper shall take the orders of the District Court as to the date of destruction."

8. The provisions as quoted above demonstrate that in what manner the records can be preserved and weeded out.

9. Perusal of the operative portion of the revisional order dated 21.12.1988 will be relevant which is as under:

"आदेश

यह निगरानी स्वीकार की जाती है

एवं विद्वान अवर न्यायालय का निर्णय एवं आज्ञाप्ति जिसके विरुद्ध यह निगरानी योजित की गयी है, को अपास्त किया जाता है। लघुवाद न्यायालय को निर्देशित किया जाता है कि वह सक्षम न्यायालय में प्रस्तुत करने के लिए लघुवाद को वापस करे। उभय पक्ष अपना -2 वाद व्यय स्वयं वहन करेंगे।

ह०/- अपठनीय 21-12-88

शिवशंकर

अपर जिला न्यायाधीश विशेष न्यायाधीश अ०व० अधि 0 झाँसी।"

10. The revisional order dated 21.12.1988 has been maintained by this

Court by dismissing the writ petition filed by petitioner vide order dated 5.11.2012, as such, plaintiff-petitioner should avail proper remedy for declaration of his right and title before appropriate Court rather application before small cause Court for substitution of legal heirs as well as for reconstruction of record of SCC Suit No.12 of 1984.

11. So far as the copy of the plaint of SCC Suit No.12 of 1984 is concerned, the same is annexed by the petitioner along with the instant petition as Annexure No.2, as such, the petitioner can avail proper remedy before proper Court for declaration / adjudication of his right/ title along with true copy of the plaint of Suit No.12 of 1984 rather taking steps before the Judge Small Cause to reconstitute the entire record of SCC Suit No.12 of 1984, which has already been decided by the revisional Court for return of the plaint for presentation before proper Court and judgement has been maintained by this Court while dismissing the writ petition filed by plaintiff-petitioner- Bhala Ram.

12. Considering the entire facts and circumstances of the case, no interference is required in the matter.

13. The writ petition is ***dismissed, accordingly.***

(Chandra Kumar Rai,J.)

October 8, 2025

Rameez