



2026:UHC:763

Judgment Pronounced on 11.02.2026
Judgment Reserved on: 18.11.2025

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/S) No.2981 of 2025

Yashpal Goswami (since Deceased)
through its legal heir Kshitij Bali Petitioner

Vs.

Smt. Shivkumari and Another Respondents

Presence- Mr. Vikas Kumar Guglani, learned counsel for the Petitioner.
Mr. Siddhartha Singh and Mr. Nikhil Singhal, learned counsel for the
Respondents/Caveator.

Hon'ble Ashish Naithani, J.

1. The present writ petition under Article 227 of the Constitution of India arises out of proceedings initiated as Khafifa Suit No. 11 of 2011, instituted before the Judge Small Cause Court and Civil Judge (Junior Division), Haridwar, by the Respondents seeking eviction, arrears of rent and damages in respect of premises situated at Khilandi Bai Dharamshala, Bada Bazar, Haridwar.

2. The original defendant, Yashpal Goswami, was admittedly in occupation of the suit premises as a tenant. During the pendency of proceedings, he expired and is now represented through his legal heir, the present Petitioner.

3. The case of the Respondents before the Trial Court was that the suit property belongs to Khilandi Bai Dharamshala, which, according to them, is a public charitable and religious trust. On that basis, it was pleaded that the provisions of the U.P. Act No. 13 of 1972 are not applicable to the suit property.



4. It was alleged that the Petitioner was a tenant at a monthly rent of ₹15, later claimed to be ₹45 per month, and that arrears of rent were due for the period from 01.01.1991 to 30.09.2011. A legal notice dated 07.10.2011 was stated to have been issued terminating the tenancy and demanding arrears.

5. The Petitioner contested the suit by filing a written statement denying the existence of any public charitable or religious trust. Reliance was placed upon a Will dated 25.09.1917 executed by Smt. Khilandi Bai, contending that the said Will did not create any trust but merely made arrangements for management of a Dharamshala, with specified persons appointed as joint managers.

6. It was further pleaded that the suit was instituted by the Respondents in their individual capacity, without authority and without impleading all persons designated as managers under the Will, rendering the suit bad for non-joinder of necessary parties.

7. The Petitioner also asserted that rent had been duly paid and deposited, including payment through bank draft and money order, and that no arrears were legally recoverable.

8. Upon trial, the Trial Court framed issues, including issues relating to the applicability of the U.P. Act No. 13 of 1972, termination of tenancy, arrears of rent and entitlement to eviction.

9. By judgment dated 11.02.2021, the Trial Court recorded findings on certain issues in favour of the Petitioner, including a finding that the suit property was not being used for a public charitable purpose and that



the provisions of the U.P. Act No. 13 of 1972 were applicable. Despite such findings, the Trial Court decreed eviction against the Petitioner.

10. Aggrieved, the Petitioner preferred Khafifa Revision No. 04 of 2021 before the Judge Small Cause Court and First Additional District Judge, Haridwar. The Revisional Court, by judgment dated 17.09.2025, dismissed the revision and affirmed the decree of eviction.

11. The present writ petition has been filed assailing both the aforesaid judgments.

12. Learned counsel for the Petitioner contended that the impugned judgments suffer from patent illegality and jurisdictional error. It was argued that once the Trial Court itself held that the provisions of the U.P. Act No. 13 of 1972 are applicable, the Small Cause Court could not have decreed eviction dehors the statutory scheme.

13. It was submitted that the Trial Court returned a categorical finding that the suit property is not governed by any public charitable or religious trust, thereby negating the very foundation on which exemption from the Rent Control Act was claimed.

14. Learned counsel further argued that the Trial Court also held that the tenancy was not validly terminated, and therefore, in absence of a valid termination, a decree for eviction was legally impermissible.

15. It was urged that the findings recorded by the Trial Court are internally inconsistent and self-destructive, and the Revisional Court failed to address these fundamental contradictions.



16. Learned counsel further submitted that the Respondents instituted the suit in their individual capacity without establishing ownership, trusteeship or authority under the Will dated 25.09.1917, and without impleading all joint managers contemplated therein.

17. It was also contended that questions relating to title and trust could not have been finally adjudicated in Small Cause jurisdiction, and the courts below exceeded their jurisdiction in doing so.

18. Learned counsel for the Respondents supported the impugned judgments and submitted that the Trial Court and Revisional Court have concurrently held against the Petitioner, and such concurrent findings ought not to be interfered with in supervisory jurisdiction.

19. It was argued that the Respondents were entitled to institute the suit and that sufficient material existed on record to justify the decree of eviction.

20. Learned counsel further submitted that the scope of interference under Article 227 is limited and does not permit re-appreciation of evidence or substitution of findings.

21. This Court is conscious of the limited and supervisory nature of jurisdiction under Article 227 of the Constitution of India. Interference is not warranted merely because another view is possible. However, where subordinate courts commit a patent error of jurisdiction, record findings which are mutually destructive, or act in disregard of settled legal principles, supervisory correction becomes imperative.



22. From a careful examination of the judgment dated 11.02.2021 passed by the Trial Court, it is evident that the Court framed specific issues relating to the applicability of the U.P. Act No. 13 of 1972 and the nature of the suit property.

23. The Trial Court recorded a categorical finding that the suit property was not being used for the purposes of a public charitable or religious trust and, consequently, that the provisions of the U.P. Act No. 13 of 1972 were applicable to the premises in question.

24. Once such a finding was returned, the legal consequence inexorably followed that eviction of a tenant could only be sought and granted in accordance with the statutory scheme under the U.P. Act No. 13 of 1972, subject to the conditions and protections provided therein.

25. Despite the aforesaid finding, the Trial Court proceeded to decree eviction against the Petitioner in exercise of Small Cause jurisdiction, without reference to any statutory ground under the U.P. Act No. 13 of 1972 and without adherence to the procedure contemplated thereunder.

26. The Trial Court further returned a finding that the tenancy of the defendant had not been validly terminated by the notice dated 07.10.2011. Having held that the tenancy was not lawfully terminated, the decree of eviction could not have been sustained even on general principles governing landlord tenant relationship.

27. The findings recorded by the Trial Court, therefore, stand in direct conflict with the relief ultimately granted. The decree of eviction is irreconcilable with the Court's own conclusions on the applicability of the Rent Control legislation and the validity of termination of tenancy.



28. Such internal inconsistency goes to the root of the jurisdiction exercised by the Trial Court and cannot be treated as a mere error of appreciation of evidence.

29. The Revisional Court, while exercising jurisdiction in Khafifa Revision No. 04 of 2021, was duty bound to examine whether the decree passed by the Trial Court suffered from jurisdictional infirmity or legal perversity.

30. A perusal of the revisional judgment dated 17.09.2025 reveals that the Revisional Court affirmed the decree without addressing the fundamental contradiction between the findings recorded and the relief granted by the Trial Court.

31. The Revisional Court failed to examine the legal consequence of the Trial Court's finding that the U.P. Act No. 13 of 1972 was applicable, and did not advert to the settled position that eviction dehors the statutory framework is impermissible once such applicability is affirmed.

32. The Revisional Court also did not deal with the issue arising from the Trial Court's finding that the tenancy was not validly terminated, which finding strikes at the very maintainability of the eviction decree.

33. The approach adopted by both courts below reflects a clear jurisdictional error, inasmuch as the courts proceeded to grant relief in a manner contrary to their own findings and contrary to the governing statutory regime.



34. This Court also finds substance in the contention that the courts below travelled beyond the permissible limits of Small Cause jurisdiction by recording findings which effectively touch upon questions relating to title, trust character and authority, which could not have been conclusively adjudicated in such proceedings.

35. The cumulative effect of the aforesaid infirmities demonstrates that the impugned judgments are vitiated by errors apparent on the face of the record and by jurisdictional transgression, attracting the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

ORDER

36. The writ petition is **allowed**.

37. The judgment and order dated 17.09.2025 passed by the Judge Small Cause Court and First Additional District Judge, Haridwar in Khafifa Revision No. 04 of 2021, as well as the judgment and decree dated 11.02.2021 passed by the Judge Small Cause Court and Civil Judge (Junior Division), Haridwar in Khafifa Suit No. 11 of 2011, are hereby set aside.

38. The matter is remitted to the Trial Court for fresh consideration in accordance with law, keeping in view the applicability of the U.P. Act No. 13 of 1972 and the findings recorded herein.

39. There shall be no order as to costs.

(Ashish Naithani J.)
11.02.2026

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