



2026:AHC:143830

HIGH COURT OF JUDICATURE AT ALLAHABAD

S.C.C. REVISION No. - 51 of 2026

Manoharlal (Deceased) and 4 others

.....Revisionist(s)

Versus

Jagdish Prasad Goel

.....Opposite Party(s)

Counsel for Revisionist(s)	: Utpal Chatterji
Counsel for Opposite Party(s)	: Ashish Kumar Singh

AND

S.C.C. REVISION No. - 79 of 2025

Manoharlal (Deceased) and 4 others Vs. Jagdish Prasad Goel

Counsel for the Revisionist (s)	: Suresh Chandra Dwivedi, Utpal Chaterji, Vinay Kumar
Counsel for Opposite Party (s)	: Ashish Kumar Singh, Avantika Nigam.

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AFR

Court No. - 35

HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.

Heard Sri Utpal Chaterji, learned counsel for the revisionists and Sri Ashish Kumar Singh, learned counsel appearing for the respondent.

3. SCC Revision No. 79 of 2025 is directed against the order dated 20.05.2025, whereby the learned trial court rejected the defendants' Application No.51C under Order VII Rule 11 of the Code of Civil Procedure seeking rejection of the plaint. SCC. Revision No.51 of 2026, in turn, assails the subsequent order dated 02.04.2026, whereby the learned trial court rejected Application No.87C raising a preliminary objection to the maintainability of the suit on the ground that, upon the enforcement of the Uttar Pradesh Regulation of Urban Premises Tenancy Act, 2021¹, the Court of Small Causes ceased to possess jurisdiction to entertain the proceedings.

4. Since both revisions arise from the same suit and involve a common question concerning the maintainability of the proceedings in the light of the provisions of the Act, 2021, they have been heard together and are being decided by this common judgment.

5. The principal controversy raised in these revisions is whether a suit instituted on 20.08.2021, after the enforcement of the Act, 2021, could validly be entertained by the Court of Small Causes or whether, by virtue of the statutory scheme of the said Act, the jurisdiction of that Court stood excluded. It is in that context that the revisionists seek to assail the impugned orders and press their objections to the maintainability of the suit, including the application under Order VII Rule 11 of the Code of Civil Procedure seeking rejection of the plaint.

6. The dispute in the present revisions pertains to two shops bearing old Municipal Nos. 3 and 4, new Municipal Nos. 4 and 5 and present Municipal Nos. 1-1/163/4 and 1-1/163/5, situated near Shanti Bhavan, Railway Road, Hapur, District Hapur. The premises were originally let out by late Narayan Das, the predecessor-in-interest of the plaintiff-

7. Alleging default in payment of rent and seeking determination of the tenancy, the respondent-landlord served upon Manohar Lal a notice dated 15.07.2021 under Section 106 of the Transfer of Property Act, 1882. The notice was duly replied to on 09.08.2021, disputing the allegations levelled therein.

8. Thereafter, on 20.08.2021, the respondent instituted S.C.C. Suit No.3 of 2021 before the Judge, Small Causes Court, Hapur, seeking eviction of the tenant from the disputed premises together with recovery of arrears of rent, damages and other consequential reliefs. During the pendency of the suit, the original defendant, Manohar Lal, died on 12.10.2022, whereupon the present revisionists were brought on record as his legal representatives.

9. Following their substitution, the defendants moved Application No. 51C under Order VII Rule 11 of the Code of Civil Procedure seeking rejection of the plaint. It was principally urged that, the suit having been instituted after the enforcement of the Act, 2021, the Court of Small Causes lacked jurisdiction to entertain it and that, in any event, the plaint disclosed no cause of action against the substituted legal representatives. The application was contested by the plaintiff and came to be rejected by the trial court by order dated 20.05.2025.

10. Subsequently, on 25.02.2026, the defendants filed Application No. 87C once again questioning the maintainability of the suit. The application was founded primarily upon the decision of this Court in **Canara Bank Branch Office and Another v. Sri Ashok Kumar @ Heera Singh²**, wherein, according to the defendants, it had been authoritatively held that disputes of the present nature were governed by the provisions of the Act, 2021 and, consequently, lay beyond the jurisdiction of the

was nothing but an attempt to reopen the same controversy solely on the basis of a subsequent judicial pronouncement.

12. By the impugned order dated 02.04.2026, the trial court rejected Application No. 87C, holding that the issue of maintainability already stood concluded by its earlier order dated 20.05.2025 passed on Application No.51C and that the decision in **Canara Bank** did not alter the legal position governing the controversy. The trial court consequently directed the parties to proceed with the trial in accordance with the earlier directions issued for its expeditious disposal.

13. Aggrieved thereby, the defendants have preferred S.C.C. Revision No.79 of 2025 against the order dated 20.05.2025 and S.C.C. Revision No.51 of 2026 against the subsequent order dated 02.04.2026.

14. In the aforesaid factual backdrop, the rival submissions advanced by learned counsel for the parties fall for consideration.

15. Learned counsel appearing for the revisionists submits that the principal controversy involved in the present revisions is no longer *res integra* in view of the decision of this Court in **Akhilesh Kumar v. Sanjay Sahgal**³. It is contended that the said decision has authoritatively interpreted the provisions of the Act, 2021 and conclusively settled the legal position regarding the forum competent to entertain proceedings instituted after the enforcement of the said Act. It is, therefore, submitted that the view taken by the trial court on the question of maintainability is plainly inconsistent with the law so declared and, consequently, both the impugned orders are liable to be set aside.

16. Learned counsel appearing for the respondent-landlord fairly does not dispute the legal principles enunciated in **Akhilesh Kumar**. He, however, submits that the controversy in the present case must be

17. In view of the aforesaid submissions, the principal question that arises for consideration is whether, upon the enforcement of the Act, 2021, disputes relating to eviction, recovery of rent and other ancillary reliefs in respect of premises governed by the said Act could continue to be entertained by the Court of Small Causes merely because the tenancy had earlier been determined by a notice under Section 106 of the Transfer of Property Act, 1882, or whether such disputes fall within the exclusive adjudicatory mechanism created under the Act, 2021.

18. The impugned order dated 02.04.2026 reveals that the trial court rejected the defendants' objection to the maintainability of the suit substantially on two grounds. Firstly, it held that an identical objection had already been considered and rejected while deciding Application No. 51C by order dated 20.05.2025 and, therefore, the issue could not be permitted to be re-agitated. Secondly, while noticing the reliance placed by the defendants upon the decision of this Court in **Canara Bank**, the trial court took the view that the said decision did not support the defendants' contention and that the proceedings could validly continue before the Court of Small Causes. Proceeding on the premise that the tenancy had already been determined by a notice under Section 106 of the Transfer of Property Act, 1882 before institution of the suit, it concluded that the provisions of the Uttar Pradesh Regulation of Urban Premises Tenancy Act, 2021 had no application and that the jurisdiction of the Court of Small Causes remained unaffected.

19. The reasoning adopted by the trial court thus rests on the fundamental premise that once the contractual tenancy had been determined under Section 106 of the Transfer of Property Act, 1882, the subsequent dispute continued to be governed exclusively by the said enactment with the consequence that the coming into force of the Act

Eviction) Act, 1972, there was no occasion to examine whether the dispute was governed by the provisions of the Act, 2021.

20. The question that falls for consideration is whether the aforesaid reasoning is consistent with the statutory scheme and legislative mandate embodied in the Act, 2021.

21. The effect of the enforcement of the Act, 2021 on proceedings instituted thereafter, its interaction with the provisions of the Transfer of Property Act, 1882, and the question whether disputes governed by the Act, 2021 continue to be triable by the Court of Small Causes merely because the tenancy had earlier been determined by a notice under Section 106 of the Transfer of Property Act, have since received authoritative consideration by this Court in **Akhilesh Kumar**. The principles emerging therefrom, read in conjunction with the statutory provisions of the Act, 2021, furnish the appropriate framework for examining the correctness of the reasoning adopted by the trial court.

22. The Act, 2021 is a special and self-contained enactment governing the rights and obligations of landlords and tenants in respect of premises to which it applies. Besides creating substantive rights and liabilities, the Act establishes a specialised adjudicatory mechanism for the enforcement thereof. The requirement of execution and submission of a written tenancy agreement contemplated under Section 4 is essentially regulatory and evidentiary in character. The absence of such an agreement, or non-submission of the particulars envisaged therein, does not, by itself, exclude the applicability of the Act or denude the Rent Authority of jurisdiction, particularly where the jural relationship of landlord and tenant is admitted or is otherwise capable of being established.

bar enacted under the provision, unmistakably manifests the legislative intent that disputes governed by the Act are to be adjudicated exclusively by the authorities constituted thereunder. Once it is found that a dispute is governed by the provisions of the Act, 2021, the jurisdiction of the ordinary civil courts, including the Court of Small Causes, stands excluded by virtue of the express bar enacted under Section 38(1).

24. The statutory exclusion contained in Section 38(1) cannot be rendered nugatory merely because, prior to institution of the proceedings, the landlord had determined the tenancy by issuing a notice under Section 106 of the Transfer of Property Act, 1882. Service of a notice under Section 106 merely determines the contractual tenancy and furnishes the landlord with a cause of action to seek eviction. It neither determines the forum competent to adjudicate the ensuing dispute nor creates, preserves or enlarges the jurisdiction of any particular court. The forum before which such right is to be enforced is governed by the law in force on the date the proceedings are instituted and not by the law under which the cause of action arose.

25. The jurisdiction of a court is determined by the law in force on the date on which the proceedings are instituted unless the statute expressly provides otherwise. The date on which the cause of action accrued or the tenancy stood determined is relevant only for the accrual of the right to sue; it does not determine the forum competent to entertain the proceedings. While determination of a tenancy under Section 106 of the Transfer of Property Act, 1882 furnishes the landlord with a cause of action to seek eviction, it neither creates nor preserves the jurisdiction of any particular forum. The question of jurisdiction must, therefore, be answered with reference to the statutory regime governing adjudication on the date of institution of the proceedings.

which date the Act, 2021 had already come into force. The determinative date for deciding the question of jurisdiction is, therefore, the date of institution of the proceedings and not the date on which the contractual tenancy stood terminated. Jurisdiction is attracted by the law prevailing on the date proceedings are instituted and cannot be preserved merely because the cause of action had arisen under an earlier legal regime. Any other interpretation would enable litigants to circumvent the legislative mandate embodied in Section 38(1) simply by issuing a notice under Section 106 prior to institution of the proceedings, thereby frustrating the object of the Act in creating an exclusive statutory mechanism for adjudication of landlord-tenant disputes and introducing a distinction, founded solely on the date of determination of the tenancy rather than the date of institution of the proceedings, which finds no support either in the language or the scheme of the Act, 2021.

27. The legal position may, therefore, be summarised thus. Where a landlord-tenant dispute is instituted after the enforcement of the Uttar Pradesh Regulation of Urban Premises Tenancy Act, 2021 and is otherwise governed by the provisions of the said Act, the forum competent to entertain such dispute must be determined with reference to the Act, 2021. The mere fact that the tenancy had earlier been determined by a notice under Section 106 of the Transfer of Property Act, 1882 does not preserve the jurisdiction of the Court of Small Causes or exclude the operation of Section 38(1) of the Act, 2021.

28. The further observation of the trial court that, since the tenancy had been determined under Section 106 of the Transfer of Property Act, 1882, the proceedings continued to be governed by that enactment and, consequently, remained maintainable before the Court of Small Causes, proceeds on a manifest misconception of the legal position. The Transfer

forum competent to entertain such dispute necessarily stood governed by the later special enactment.

29. Tested on the aforesaid legal position, the reasoning adopted by the trial court cannot be sustained. The trial court failed to notice the distinction between the law governing the determination of a tenancy and the law governing the forum competent to adjudicate disputes arising therefrom. It erroneously assumed that determination of the tenancy under Section 106 of the Transfer of Property Act, 1882 preserved the jurisdiction of the Court of Small Causes notwithstanding the coming into force of the Act, 2021 and the express jurisdictional bar enacted by Section 38(1). The impugned order dated 02.04.2026, therefore, suffers from a manifest error of law affecting the very assumption of jurisdiction and is liable to be set aside.

30. Turning now to the order dated 20.05.2025, it is evident that the trial court rejected Application No.51C under Order VII Rule 11 of the Code of Civil Procedure by repelling two distinct objections raised by the defendants. The first related to the alleged absence of a cause of action against the substituted legal representatives, while the second pertained to the maintainability of the suit before the Court of Small Causes in the light of the enforcement of the Act, 2021.

31. Insofar as the first objection is concerned, this Court finds no infirmity in the view taken by the trial court. It is trite that while considering an application under Order VII Rule 11 CPC, the Court is required to confine itself to the averments contained in the plaint and the documents relied upon by the plaintiff. The plaint, as amended after substitution, specifically impleads the legal representatives of the deceased defendant and seeks the reliefs originally claimed against the

substituted defendants. The rejection of Application No. 51C to that extent, therefore, warrants no interference.

32. The second objection, however, stands on an entirely different footing. While rejecting the application, the trial court proceeded on the premise that, since the plaint itself pleaded that the provisions of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 were inapplicable and the tenancy had been determined by a notice under Section 106 of the Transfer of Property Act, 1882, the suit continued to remain maintainable before the Court of Small Causes notwithstanding the enforcement of the Act, 2021.

33. The approach, however, overlooks the real issue arising for consideration. The question was not whether the Act of 1972 applied to the dispute, but whether, on the date of institution of the suit, the jurisdiction of the Court of Small Causes stood excluded by reason of the statutory scheme of the Act, 2021. Likewise, the determination of the tenancy under Section 106 of the Transfer of Property Act was relevant only for the accrual of the landlord's cause of action and not for determining the forum competent to adjudicate the dispute. The trial court thus addressed itself to considerations which were legally irrelevant while failing to examine the jurisdictional consequences flowing from Sections 4 and 38 of the Act, 2021.

34. In view of the foregoing discussion, this Court is of the considered opinion that the trial court proceeded on an erroneous understanding of the statutory scheme of the Uttar Pradesh Regulation of Urban Premises Tenancy Act, 2021. The premise that determination of the tenancy by a notice under Section 106 of the Transfer of Property Act, 1882, coupled with the admitted inapplicability of the U.P. Urban Buildings

into force on the date of institution of the suit. The findings recorded in both the impugned orders on the question of maintainability, therefore, suffer from a manifest error of law warranting interference in exercise of revisional jurisdiction under Section 25 of the Provincial Small Cause Courts Act, 1887.

35. However, insofar as the rejection of the objection founded upon the alleged absence of a cause of action against the substituted legal representatives is concerned, the trial court has committed no error. The finding that the plaint discloses a cause of action against the legal representatives, who represent the estate of the deceased defendant, is in consonance with the settled principles governing Order VII Rule 11 of the Code of Civil Procedure and, therefore, calls for no interference.

36. The findings recorded by the learned trial court on the issue of maintainability in both the impugned orders are, therefore, liable to be set aside.

37. Consequently, S.C.C. Revision No.79 of 2025 and S.C.C. Revision No.51 of 2026 are **allowed**. The orders dated 20.05.2025 and 02.04.2026 passed by the Judge, Small Causes Court, Hapur are hereby set aside insofar as they hold that S.C.C. Suit No.3 of 2021 is maintainable before the Court of Small Causes notwithstanding the enforcement of the Uttar Pradesh Regulation of Urban Premises Tenancy Act, 2021.

38. As a necessary consequence, it is declared that S.C.C. Suit No.3 of 2021 is not maintainable before the Court of Small Causes and shall proceed no further before the said forum.

39. At this stage, learned counsel appearing for the respondent-landlord prays that liberty be reserved in favour of the respondent to

competent in law. It is clarified that this Court has not expressed any opinion on the merits of the rival claims and that all questions of fact and law are expressly left open to be urged and adjudicated before the competent authority in accordance with law.

(Dr. Yogendra Kumar Srivastava,J.)

July 15, 2026

Vikram/RKK/-