

Pecuniary Jurisdiction Of Court's of Small Causes

Small Cause Courts are established under the Provincial Small Cause Courts Act, 1887. Section 15 of the Act deals with cognizance of Suits by Courts of Small Causes and Sub-section (1) of the Act provides that Court of Small Causes shall not take cognizance of the suits specified in the Second Schedule. Sub Section 2 of Section 15 was amended by Uttar Pradesh Act No. 17 of 1991, which reads as under: "(2) Subject to the exceptions specified in that Schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five thousand rupees shall be cognizable by a Court of Small Causes:

Provided that in relation to suits by the lessor for the eviction of a lessee from a building after the determination of his lease or for recovery from him of rent in respect of the period of occupation thereof during the continuance of the lease, or of compensation for use and occupation thereof after the determination of the lease, the reference in this sub-section to five thousand rupees shall be construed as a reference to twenty-five thousand rupees.

Explanation.- For the purposes of this sub-section, the expression 'building' has the same meaning as in Art. (4) in the Second Schedule."

Second Schedule to the Provincial Small Cause Courts Act enumerates the Suits which are excepted from cognizance of a Court of Small Causes. Article (4) of the Second Schedule was amended vide Uttar Pradesh Act No. 37 of 1972, which is extracted below:

"(4) a suit for the possession of immoveable property or for the recovery of an interest in such property, but not including a suit by a lessor for the eviction of a lessee from a building after the determination of his lease, and for the recovery from him of compensation for the use and occupation of that building after such determination of lease.

Explanation.- For the purposes of this Article, the expression 'building' means a residential or non-residential roofed structure, and includes any land (including any garden), garages, out-houses, appurtenant to such building, and also includes any fittings and fixtures affixed to the building for the more beneficial enjoyment thereof."

- From a conjoint reading of Section 15(2) and Article 4 of the Second Schedule, as applicable in State of U.P. & Uttarakhand, it is apparent that a suit by a Lessor for the eviction of a Lessee from a building after the determination of his lease, and for the recovery from him of compensation for the use and occupation of that building after such determination of lease, shall be cognizable by a Court of small causes.

Under Section 25 (1) of Bengal, Agra and Assam Civil Courts Act, 1887, High Court is vested with the power to confer upon any Civil Judge or Munsiff, the jurisdiction of Judge of Court of Small Causes under the Provincial Small Causes Courts Act 1887, upto the value of ` 5,000/-. In respect of the suit by a Lessor against a Lessee, such valuation of ` 5,000/- has been enhanced to ` 25,000/-. Further, by virtue of Section 25 (2) of the said Act, High Court can confer upon any District Judge or Additional District Judge, the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act for the trial of all suits, (irrespective of their value) by the Lessor for the eviction of a Lessee from a building after the determination of his lease, or for arrears of rent

and mesne profits. Section 25 (4) of the said Act provides further that where the jurisdiction of a Judge of a Small Causes is conferred upon a District Judge or Additional District Judge, than notwithstanding anything contained in Section 15 of Provincial Small Causes Courts Act 1887, all suits referred to in Sub Section (2) shall be cognizable by Court of Small Causes. Section 25 of Bengal, Agra and Assam Civil Courts Act is extracted below for ready reference:

"25. Power to invest Civil Judges and Munsifs with Small Cause Court jurisdiction-[(1) The High Court may be notification in the Official Gazette, confer within such local limits as it thinks fit, upon any Civil Judge or Munsif, the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Court Act, 1887 or the trial of suits cognizable by such

Courts, up to such value not exceeding five thousand rupees as it thinks fit, and may withdraw any jurisdiction so conferred:

Provided that in relation to suits of the nature referred to in the proviso to sub-section (2) of Section 15 of the said Act, the reference in this sub-section to five thousand rupees shall be construed as reference to twenty five thousand rupees.

(2) The [High Court] may by notification in the Official Gazette, confer upon any District Judge or any Additional District Judge the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, for the trial of all suits (irrespective of their value), by the lessor for

the eviction of a lessee from a building after the determination of his lease, or for the recovery from him of rent in respect of the period of occupation thereof during the continuance of the lease or of compensation for the use and occupation thereof after such determination of lease and may withdraw any jurisdiction so conferred. Explanation-For the purposes of the sub-section, the expression 'building' has the same meaning as in Art. (4) in the Second Schedule to the said act.

(3) [*] (4) Where the jurisdiction of a Judge of a Court of Small Causes is conferred upon any District Judge or Additional District Judge by notification under this section, then notwithstanding anything contained in Sec.15 of the Provincial Small Cause Courts Act, 1887, all suits referred to in sub-section (2) shall be cognizable by Court of Small Causes."

Before State Reorganization, in erstwhile State of Uttar Pradesh, notifications were issued conferring jurisdiction of Small Cause Courts upon Munsiff in each local area for a valuation upto ` 5,000/-, upon Civil Judge (Senior Division) for a valuation above ` 5,000/- upto ` 25,000/- and the District Judge or Additional District Judge, irrespective of valuation of the suit. Those notifications are applicable in State of Uttarakhand also and District Judge can entertain a Small Cause suit irrespective of its valuation.

Note- if provisions, of U.P. Act No. 13 of 1972 were applicable to the building, then also the eviction Suit filed under Section 20(2)(a) would be cognizable by a Small Cause Court.

Thank you

High Court of Uttarakhand,

Senior Superintendent of police vs smt. Shanti Devi and Another, Civil Revision 32 of 2015

Date of Judgement-14-06-2019,

- Supreme Court of India

Om Prakash Agrwal vs Vishan Dayal Rajpoot

Civil Appeal No.9051/9052 of 2018,

- Date of Judgement-12-10-2018

Default in payment of rent for more than 4 months, is a ground for filing eviction Suit under Section 20 (2) (a) of U.P. Act No. 13 of 1972. Such suit would be cognizable by a Judge Small Cause in view of Section 15 of Provincial Small Cause Courts Act, 1887 read with Section 25 of Bengal, Agra and Assam Civil Courts Act, 1887. Under U.P. Act No. 13 of 1972, a landlord can recover possession of a building from the tenant either under Section 20 (2) or under Section 21 (1) of the Act. Section 21 (1) provides for release of building on the ground that (a) building is bonafide required by the landlord or (b) when the building is in a dilapidated condition and is required for purposes of demolition and new construction. Forum provided in these two provisions is different; under Section 21 (1) an application has to be filed before the Prescribed Authority while under Section 20 (2), a suit for eviction has to be filed, which can be filed only before a competent Court of law.