

**Court No. - 35**

**Case :-** FIRST APPEAL DEFECTIVE No. - 185 of 2025

**Appellant :-** Pratap Fransis

**Respondent :-** Akil Ahmad And 2 Others

**Counsel for Appellant :-** Avinash Pandey,Virendra Kumar

**Hon'ble Sandeep Jain,J**

1. The case was taken up on mention by the learned counsel for the appellant.
2. The instant first appeal under Section 96 CPC has been filed impugning the order dated 15.01.2025 passed by the court of Additional District Judge, Court No.3, Meerut in Civil Misc. Case No.43 of 2025 (Pratap Fransis Vs. Akil Ahmad & another) whereby the objector-appellant's application under Order 21 Rule 97 CPC has been dismissed.
3. Office has raised a preliminary objection that the instant appeal is not legally maintainable.
4. Learned counsel for the appellant submitted that SCC Suit No.48 of 2009 (Akil Ahmad and another Vs. Nora Fransis) was fraudulently decreed exparte on 18.02.2010 and thereafter, Execution Case No.1 of 2010 (Akil Ahmad & another Vs. Nora Fransis) was filed for evicting the tenant and obtaining the possession of the disputed premises, in which the objector-appellant had filed his objection under Order 21 Rule 97 CPC on the ground that he is the owner of the disputed property but his objection has been dismissed illegally. He further submitted that the appellant is the owner of the disputed property on the basis of the Will executed in his favour by his father Fransis on 11.04.2007. He further submitted that since the appellant is the owner of the disputed property, as such, the eviction decree cannot be executed by dispossessing the objector from the disputed property.
5. I have heard learned counsel for the objector-appellant and perused the record.
6. It is well settled that in a SCC suit, the title of the parties cannot be decided and only the relationship of landlord and tenant is to be seen between the parties and on the basis of this relationship, S.C.C Suit No.48 of 2009 was decreed on

18.02.2010 and for executing the eviction decree, an Execution Case No.1 of 2010 was filed by the decree holders in which the appellant filed an application under Order 21 Rule 97 CPC, claiming himself to be the owner of the disputed property, which has been rejected by the impugned order, against which the instant first appeal has been filed by the objector/appellant.

7. It is apparent that the appellant is claiming ownership of the disputed property on the basis of registered Will dated 11.04.2007 alleged to be executed by his father Fransis, who died on 04.05.2016. It is apparent that the Will became effective on the death of his father but prior to that S.C.C Suit No.48 of 2009 was decreed exparte on 18.02.2010 against the first wife of the appellant i.e. Nora Fransis, being the tenant in the disputed premises.

8. It is also evident that the appellant has filed Original Suit No.74 of 2025 (Pratap Fransis Vs. Akil Ahmad & another) in which he has claimed himself to be the owner of the disputed property on the basis of the alleged Will of his father and has also sought that the exparte decree dated 18.02.2010 passed in S.C.C Suit No.48 of 2009 (Akil Ahmad & others Vs. Nora Fransis) be declared null and void. It is apparent that the rights of the plaintiff are to be decided in OS no.74 of 2025, which is pending for disposal.

9. It is also pertinent to mention that as per Section 24 of Provincial Small Cause Courts Act, 1887 (PSCC Act), only an order specified in clause (ff) or clause (h) of Section 104 (1) CPC, 1908 made by Court of Small Causes, is appealable.

10. Section 25 of the Act, 1887 as applicable in the State of Uttar Pradesh, reads as under:-

*"25. Revision of decrees and orders of Courts of Small Causes.- The District Judge, for the purpose of satisfying himself that a decree or order made in any case decided by a Court of Small Causes was according to law, may of his own motion, or on the application of an aggrieved party made within thirty days from the date of such decree or order, call for the case and pass such order with respect thereto as he thinks fit."*

*"Provided that in relation to any case decided by a District Judge or Additional District Judge exercising the jurisdiction of a Judge of Small Causes, the power of revision under this section shall vest in the High Court."*

11. It is apparent that the impugned order is not an appealable order under Section 24 of the P.S.C.C. Act and is only a revisable order under Section 25 of the P.S.C.C. Act, but the objector has filed First Appeal under Section 96 CPC, which is clearly not maintainable.

12. Accordingly, the objection regarding maintainability of the instant appeal is upheld and consequently, the instant appeal is **dismissed** as being not legally maintainable.

**Order Date :-** 21.8.2025

Himanshu