



**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No.14404 of 2025  
(@SLP(C) No.34663 of 2025@ Diary No.29953 of 2025)**

**Chandra Prakash Gupta & Ors.**

**...Appellants**

**Versus**

**Shanti Devi (Dead) Through LR.**

**...Respondent**

**ORDER**

Leave granted.

1. The appellants are concerned with the proceedings initiated for eviction of a tenanted premises owned by the predecessor-in-interest of the respondent. The landlord and the tenant are no more, who are respectively represented by the appellants and the respondent herein, the legal representatives.

2. The owner filed a suit for eviction against the tenant before the Civil Judge (Senior Division) as Small Cause Case No.8 of 1988. The contention was that the tenant had defaulted the rent and despite notice, the default continued, upon which recovery of arrears of rent and eviction were

sought. The arrears of rent as also the eviction were allowed by the Trial Court on 07.03.2007 granting the arrears of rent during the pendency of the suit as mesne profits, as per Annexure P3.

3. The tenant filed the revision in which there was a remand as per Annexure P4 against which the landlord approached the High Court. While that proceeding was pending, the tenant expired and the landlord promptly filed an application for substitution of the deceased tenant by his legal representatives. The same was allowed by Annexure P9 dated 19.03.2025, directing service of notice through dasti on the LR's of the second respondent, the tenant. Before such service was effected and the LR's impleaded, the writ petition was disposed of by the impugned judgment dated 21.04.2025. In the impugned order the statement of the landlord that she is not pressing for mesne profits was recorded and eviction ordered.

4. Learned counsel appearing for the appellants herein, the legal heirs of the tenant, submit that they were not heard before the order passed and the tenanted premises are still in their possession. It is argued that the Revisional Court

remanded the matter for a fresh consideration. The remand was an open remand, insofar as the finding that there is no conclusion in the judgment, regarding the rate of rent, its default and the enhancement if any during the transitory period challenged in revision. Learned counsel for the respondent, however, submits that he has given up the entire rent arrears and only seeks eviction.

5. We notice that the remand as submitted by the learned counsel for the appellants, was an open remand, which takes in the issue of arrears as also the issue of eviction, which was also on the ground of default in payment of rent. When there is no conclusion recorded regarding the default, there could not have been an eviction ordered. The challenge made against the revisional order could not have been disposed of without substituting the deceased-respondent/tenant with his LR's. The order passed against the deceased tenant is *non est*. Though in the normal course we would have restored the writ petition in the fitness of things especially considering the long pendency of the case, we direct the Small Cause Case No.8 of 1988 to be restored to the file of the Civil Judge (Senior Division), Balrampur. The evidence

is complete and the revisional order was only with respect to the conclusions. The parties shall appear before the Small Cause Court positively on 20.01.2026 and the Civil Judge (Senior Division), Balrampur shall give one adjournment for hearing. The matter shall be heard at the next posting date and an order passed in accordance with law specifically dealing with the defects pointed out by the Revisional Court. The Civil Appeal is allowed without any observation on merits, which has to be decided in the proceedings remanded.

6. Pending application(s), if any, shall stand disposed of.

.....J.  
(AHSANUDDIN AMANULLAH)

..... J.  
(K. VINOD CHANDRAN)

**NEW DELHI**  
**NOVEMBER 28, 2025.**