



2026:AHC:179049

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 4918 of 2026

Smt Raisi Begum and 2 others

.....Petitioner(s)

Versus

Javed Anwar and 2 others

.....Respondent(s)

Counsel for Petitioner(s)	: Gulrez Khan, Krishna Dutt Tiwari
Counsel for Respondent(s)	: Divakar Rai Sharma

AFR

Court No. - 35

HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.

Heard Sri Gulrez Khan, learned counsel appearing for the petitioners and Sri Divakar Rai Sharma, learned counsel appearing for the respondents.

2. The present petition under Article 227 of the Constitution of India has been filed assailing two interlocutory orders passed by the Additional District and Sessions Judge, Court No. 2, Moradabad in J.S.C.C. Suit No. 25 of 2016, Javed Anwar and others v. Raisi Begum and others. By the first order dated 09.10.2025, Applications Nos. 159-Ga and 164-Ga filed by the petitioners seeking framing of additional issues, were rejected. By the subsequent order dated 07.03.2026, Application No. 176-Ga, filed by the petitioners under Section 10 read with Section 151 CPC seeking stay of further proceedings in the suit during pendency of Second Appeal No. 306 of 2018 before this Court, was also rejected.

3. The respondent-plaintiffs instituted J.S.C.C. Suit No.25 of 2016 seeking eviction of the petitioners-defendants from the premises in dispute and recovery of arrears of rent. The plaintiffs claim ownership and landlordship over the property on the strength of sale deeds dated 03.01.1992 and

07.01.1992, stated to have been executed by the then Mutawalli, Shamshul Hasan. According to the plaintiffs, the petitioners were inducted as tenants and committed default in payment of rent at the rate of Rs.2,000/- per month with effect from April, 2007. Their tenancy was thereafter terminated by notice dated 25.07.2016 issued under Section 106 of the Transfer of Property Act.

4. The petitioners, in their written statement, have disputed the very existence of the relationship of landlord and tenant between the parties. Their case is that the property in dispute is Wakf property and that they are tenants under the Wakf and its Managing Committee and not under the respondent-plaintiffs. They have also questioned the validity and legal effect of the sale deeds dated 03.01.1992 and 07.01.1992, on the basis of which the respondents assert ownership and landlordship, contending that the said instruments are void and incapable of conferring any title upon the respondents.

5. The petitioners have further pleaded that, the dispute being one concerning Wakf property, the jurisdiction to adjudicate the controversy lies with the Wakf Tribunal under Sections 83 and 85 of the Wakf Act, 1995 and that the Court of Small Causes lacks jurisdiction to entertain the suit. The defence, therefore, is not confined to the alleged default in payment of rent or other incidents of tenancy. It strikes at the very foundation of the plaintiffs' claim of ownership and landlordship and, in addition, raises a specific objection to the jurisdiction of the court seized of the eviction proceedings.

6. Seven issues were framed by the trial court on 21.05.2019. Thereafter, the petitioners moved Applications Nos. 159-Ga and 164 Ga seeking framing of additional issues. The proposed issues relate, inter alia, to the alleged Wakf character of the property, the status of the petitioners as tenants under the Wakf and its Managing Committee, the existence of the relationship of landlord and tenant between the parties, the authority to realise rent, the validity and service of the notice dated 25.07.2016, the effect of earlier proceedings, the applicability of Sections 83 and 85 of the Wakf Act, 1995, and the validity and effect of the sale deeds dated 03.01.1992 and 07.01.1992.

7. The applications seeking framing of additional issues were rejected by order dated 09.10.2025. While doing so, the trial court took note of the earlier order dated 28.04.2022 passed by this Court in S.C.C. Revision No. 56 of 2022, whereby discretion had been left to the court below to frame additional issues or points of determination, if found necessary for proper adjudication of the case. The trial court also noticed that the suit had remained pending since

2016, that its expeditious disposal was being monitored and that the evidence of the plaintiff's witness was yet to be completed. It consequently observed that, if found necessary, appropriate points of determination could be formulated at the stage of final adjudication.

8. The second controversy arises out of Application No. 176-Ga filed by the petitioners under Section 10 read with Section 151 CPC. The application was founded upon the pendency of Second Appeal No. 306 of 2018 before this Court, arising from earlier litigation concerning the validity of the sale deeds dated 03.01.1992 and 07.01.1992. According to the petitioners, the validity of those very sale deeds is directly and substantially in issue in the pending second appeal and, since the respondents' claim of ownership and landlordship in the present suit is founded upon the same instruments, continuation of the J.S.C.C. proceedings may result in inconsistent or conflicting findings.

9. While considering the prayer for stay, the trial court noticed the earlier litigation concerning the sale deeds, including Original Suit No. 1163 of 1993, its dismissal and the subsequent appellate proceedings culminating in the pendency of Second Appeal No. 306 of 2018. It also took note of the proceedings before the Wakf authorities and the Wakf Tribunal, as well as the earlier J.S.C.C. Suit No. 121 of 1996, in which, according to the respondents, the predecessor-in-interest of the petitioners had pleaded payment of rent to the respondents.

10. The trial court ultimately declined to stay the proceedings, observing that the subject matter of the present suit and that of the pending second appeal were distinct. It further noticed that the present suit concerns the relationship of landlord and tenant, whereas the validity of the sale deeds formed the subject matter of the earlier litigation, and that no order had been passed by this Court staying the proceedings of the present J.S.C.C. suit.

11. Aggrieved by the aforesaid orders dated 09.10.2025 and 07.03.2026, the petitioners have invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

12. Before proceeding to the submissions on merits, the preliminary objection raised by the respondent as to the maintainability of the present petition may briefly be noticed. It is contended that, insofar as the order dated 07.03.2026 is concerned, the same constitutes a "case decided" within the meaning of Section 25 of the Provincial Small Cause Courts Act, 1887. Since the petitioners had sought a statutory stay of the proceedings under Section 10

CPC and the learned trial court had conclusively rejected that prayer, it is submitted that the appropriate remedy available to the petitioners was to invoke the revisional jurisdiction of this Court under Section 25 of the Act, and not the supervisory jurisdiction under Article 227 of the Constitution.

13. Learned counsel for the parties, however, have agreed that the aforesaid preliminary objection as to maintainability may be considered along with their respective submissions on the merits of the challenge to the two impugned orders. Accordingly, the objection as to maintainability and the merits of the challenge are being considered together.

Submissions on behalf of the Petitioners

14. Learned counsel for the petitioners submits that the property in dispute is Wakf property and that, once a valid dedication as Wakf has been made, its character cannot be altered by an unauthorised transfer. It is contended that neither the Mutawalli nor any beneficiary possesses proprietary authority to alienate Wakf property and that the sale deeds dated 03.01.1992 and 07.01.1992, relied upon by the respondents as the basis of their claim of ownership and landlordship, are consequently void. It is further submitted that the requisite permission contemplated under Section 49-A of the U.P. Muslim Wakf Act, 1960 was never obtained.

15. Learned counsel further submits that the validity of the aforesaid sale deeds is directly and substantially involved in Second Appeal No. 306 of 2018, which arises out of proceedings instituted by the predecessor-in-interest of the petitioners seeking cancellation of the said instruments. According to him, the respondents' claim of ownership and landlordship in the present suit rests upon the very instruments whose validity is presently under consideration before this Court.

16. It is, therefore, contended that, if the sale deeds are ultimately held to be void or otherwise invalid, the very foundation of the respondents' claim to ownership and landlordship would cease to exist. Continuation of the J.S.C.C. proceedings, according to learned counsel, would thus create a real possibility of inconsistent or conflicting findings. It is on this premise that stay of the suit was sought under Section 10 read with Section 151 CPC.

17. Learned counsel submits that the controversy in the suit cannot be reduced to a mere dispute relating to arrears of rent or default. The petitioners have specifically pleaded that the property is Wakf property and that they are

tenants under the Wakf and its Managing Committee and not under the respondents. The existence of the landlord-tenant relationship asserted by the plaintiffs is, therefore, itself in issue. It is consequently urged that the question whether the Court of Small Causes possesses jurisdiction to entertain the suit assumes fundamental importance.

18. It is further submitted that the trial court consequently erred in rejecting the applications seeking framing of additional issues. According to learned counsel, the proposed issues arise directly from the pleadings and relate to jurisdiction, maintainability, the character of the property, the status of the parties, the existence of the landlord-tenant relationship and the validity of the instruments on which the plaintiffs' claim is founded. These questions, it is urged, cannot appropriately be left to be dealt with merely as incidental matters at the stage of final adjudication without first identifying the precise controversies requiring determination.

19. Learned counsel also disputes the reliance placed by the respondents upon the alleged payment of rent in the earlier proceedings. It is submitted that the petitioners' consistent case has been that they were tenants under the Wakf and not under the respondents. Any payment made pursuant to the order dated 30.06.2008, according to learned counsel, cannot amount to an admission of the respondents' title or landlordship, particularly when the petitioners dispute the very validity of the sale deeds on which such title is founded.

20. On the question of maintainability of the present petition, learned counsel submits that the order dated 07.03.2026 rejecting the application under Section 10 read with Section 151 CPC does not constitute a "case decided" within the meaning of Section 25 of the Provincial Small Cause Courts Act, 1887. It is contended that the said order merely declined to keep the pending suit in abeyance and did not determine any substantive right or obligation of the parties. The supervisory jurisdiction of this Court under Article 227, therefore, remains available.

21. Learned counsel submits that rejection of the application under Section 10 does not adjudicate upon the validity of the sale deeds, the Wakf character of the property, the existence of the landlord-tenant relationship or the ultimate rights of the parties in the suit. The order merely permits the pending proceedings to continue. It is, therefore, urged that such an order cannot be treated as an independently revisable "case decided" merely because the

application seeking stay of proceedings was separately considered and rejected.

Submissions on behalf of the respondents

22. Learned counsel appearing for the respondents supports the impugned orders and submits that the trial court has committed no jurisdictional error in either declining to frame additional issues or refusing to stay further proceedings in the suit.

23. It is contended that the issues already framed sufficiently cover the controversy requiring adjudication and that the petitioners' applications, proposing as many as sixteen additional issues, were essentially intended to multiply the proceedings and delay disposal of a suit instituted in 2016. Reliance is placed upon the order dated 28.04.2022 passed by this Court in S.C.C. Revision No. 56 of 2022, whereby the trial court was left at liberty to frame additional issues or points of determination only if considered necessary for proper adjudication of the dispute.

24. Learned counsel further submits that the petitioners have failed to place the material developments concerning the alleged Wakf status of the property in their proper perspective. It is pointed out that, pursuant to proceedings before the U.P. Sunni Central Wakf Board, its earlier orders concerning the property were withdrawn and correction of the Wakf register was directed, resulting in deletion of the disputed property from the list of Wakf properties. It is submitted that the Wakf Tribunal, by order dated 27.01.2015, took note of the said development and that the order was never challenged before the competent forum.

25. According to learned counsel, in view of the aforesaid proceedings, the petitioners cannot continue to assert the Wakf character of the property as a basis for ousting the jurisdiction of the Court of Small Causes. It is submitted that the question regarding the Wakf status of the property has already been considered in proceedings before the Wakf authorities and the Tribunal and cannot now be resurrected as a ground for indefinitely delaying adjudication of the eviction proceedings.

26. On the application under Section 10 CPC, learned counsel submits that the statutory conditions for attracting the provision are not satisfied. The earlier litigation culminating in Second Appeal No. 306 of 2018 concerns cancellation and validity of the sale deeds, whereas the present proceedings are for eviction and recovery of arrears of rent. The nature of the two

proceedings, the reliefs claimed therein and the matters requiring adjudication are, therefore, materially different.

27. It is further submitted that no order admitting the appeal or granting any interim relief has been passed by this Court in Second Appeal No. 306 of 2018. Mere pendency of the second appeal, according to learned counsel, cannot by itself furnish a ground for arresting proceedings before the trial court, particularly when the proceedings arise from distinct causes and involve different reliefs.

28. Learned counsel also relies upon the earlier J.S.C.C. Suit No. 121 of 1996. It is submitted that, in those proceedings, the predecessor-in-interest of the petitioners had pleaded that rent was remitted to respondent no.1 through money orders, which were returned, whereafter the rent was deposited in Court. According to the respondents, these pleadings constitute a clear admission of the existence of the landlord-tenant relationship and materially undermine the petitioners' present plea that their tenancy was under the Wakf and not under the respondents.

29. It is thus submitted that the present suit does not require adjudication of the ultimate title to the property. According to the respondents, the controversy before the Court of Small Causes is confined to the existence of the landlord-tenant relationship, the alleged default in payment of rent and such other matters as fall within its jurisdiction. The objections concerning the Wakf character of the property and the validity of the sale deeds, it is argued, neither require formulation of the numerous additional issues proposed by the petitioners nor furnish a ground for staying the proceedings.

30. Learned counsel lastly submits that, insofar as the objection to the maintainability of the present petition is concerned, the order dated 07.03.2026 constitutes a "case decided" within the meaning of Section 25 of the Provincial Small Cause Courts Act, 1887. Since the petitioners had sought a statutory stay under Section 10 CPC and the trial court had conclusively rejected that prayer, it is submitted that the appropriate remedy was to invoke the revisional jurisdiction under Section 25 of the Act and not the supervisory jurisdiction of this Court under Article 227 of the Constitution.

31. The respondents accordingly submit that neither of the impugned orders suffers from any jurisdictional error, patent illegality or perversity warranting interference in exercise of the supervisory jurisdiction of this Court and that the petition is liable to be dismissed.

Questions for Consideration

32. In view of the pleadings, the rival submissions and the nature of the orders under challenge, the following questions arise for consideration:

- (i) Whether the order dated 07.03.2026 rejecting the petitioners' application under Section 10 read with Section 151 CPC, seeking stay of the proceedings of the J.S.C.C. suit, constitutes a "case decided" within the meaning of Section 25 of the Provincial Small Cause Courts Act, 1887 and, if so, what is the consequence thereof for the maintainability of the present petition under Article 227 of the Constitution?
- (ii) What is the scope and effect of Section 17 of the Provincial Small Cause Courts Act, 1887 read with Order L Rule 1 CPC, insofar as it excludes the formal settlement of issues under Order XIV CPC in proceedings before a Court of Small Causes, and requires the Court to ascertain and determine the material points in controversy?
- (iii) Whether, having regard to the pleadings and the nature of the controversy raised by the petitioners, the trial court was justified in declining to formulate additional points of determination in relation to the alleged Wakf character of the property, the jurisdiction of the Court of Small Causes, the existence of the landlord-tenant relationship and the validity and effect of the sale deeds relied upon by the respondents?
- (iv) Whether the pendency of Second Appeal No. 306 of 2018 warranted stay of the proceedings of the J.S.C.C. suit either by operation of Section 10 CPC or in exercise of the inherent jurisdiction of the court under Section 151 CPC?

The first two questions, being foundational to the maintainability of the present petition and the scope within which the impugned order concerning additional points of determination is required to be examined, may be considered first. The questions arising on the merits of the two impugned orders shall thereafter be considered in their respective contexts.

Scope of the expression "case decided" under Section 25 of the Provincial Small Cause Courts Act in the context of an order rejecting an application under Section 10 CPC

33. The first question which arises for consideration is whether the order dated 07.03.2026, whereby the application filed by the petitioners under Section 10 read with Section 151 CPC seeking stay of further proceedings in the pending J.S.C.C. Suit, has been rejected, constitutes a "case decided"

within the meaning of Section 25 of the Provincial Small Cause Courts Act, 1887 (hereinafter referred to as the “Provincial Small Cause Courts Act”). The answer to this question assumes significance because the jurisdiction under Section 25 is a revisional jurisdiction conferred upon this Court in respect of a “case decided” by a Court of Small Causes, whereas the supervisory jurisdiction under Article 227 of the Constitution operates on a different plane. The mere fact that an order has been passed upon an application during the pendency of a suit cannot, by itself, conclude the question whether such order amounts to a “case decided”. The expression has to be examined in the statutory setting in which it occurs and in the light of the nature and effect of the order under consideration.

34. Section 25 of the Provincial Small Cause Courts Act provides for revision by the High Court of a decree or order made in any case by a Court of Small Causes in which such Court appears to have exercised a jurisdiction not vested in it by law, or failed to exercise a jurisdiction so vested, or acted in the exercise of its jurisdiction illegally or with material irregularity. The expression “case decided” occurring in the provision is, therefore, not without significance. The revisional jurisdiction does not extend to every order which may be passed in the course of a proceeding merely because the order has some bearing upon the progress of the suit. There has to be a determination of such nature as can properly be regarded as a decision in the case within the meaning of the provision. The question, therefore, is not merely whether the Court has applied its mind to an application and passed an order thereon, but whether the determination embodied in that order possesses the character and consequence which would bring it within the expression “case decided”.

35. It is equally necessary to bear in mind the distinction between appellate and revisional jurisdiction. An appeal ordinarily permits reconsideration of the correctness of the decision on facts as well as law, subject to the limits prescribed by the statute. Revisional jurisdiction, on the other hand, is supervisory in nature, though the scope of interference under Section 25 of the Provincial Small Cause Courts Act is wider than that of a purely jurisdictional revision and extends to examining the correctness, legality or propriety of the decision under challenge within the limits prescribed by the statute. Such wider scope, however, does not dispense with the statutory requirement that there should be a “case decided”. Consequently, every interlocutory

determination made by a Court of Small Causes cannot automatically be treated as a revisable order.

36. The expression “case decided” has received consideration in the context of revisional jurisdiction under Section 115 CPC. In **Ramrichpal Singh v. Dayanand Sarup**¹, a Full Bench of this Court considered an order passed on an application under Section 10 CPC and held that such an order could constitute a “case decided” for the purposes of Section 115 CPC. The decision is undoubtedly relevant because it demonstrates that the determination of an application under Section 10 CPC is not, merely because it is interlocutory in character, incapable in every situation of constituting a “case decided”. The fact that an order is passed during the pendency of the suit is, therefore, not by itself decisive.

37. At the same time, the principle laid down in **Ramrichpal Singh** cannot be applied mechanically without examining the statutory provision under which the revisional jurisdiction is presently invoked. The Full Bench was dealing with the scope of the expression “case decided” in Section 115 CPC. The present matter arises under Section 25 of the Provincial Small Cause Courts Act, which forms part of a special statutory scheme governing the procedure, adjudication and revisional control of proceedings before Courts of Small Causes. The expression may be the same, but its application has necessarily to be considered having regard to the scheme and object of the special enactment and, in particular, the special procedure prescribed for Small Cause Court suits.

38. The statutory scheme governing Small Cause Court proceedings assumes importance in this regard. Section 17 of the Provincial Small Cause Courts Act makes the procedure prescribed by the Code of Civil Procedure applicable to Courts of Small Causes subject to the provisions of the Act and to the provisions contained in the Second Schedule and other provisions of the Code which are excluded or modified in their application to such Courts. The procedure before a Small Cause Court is thus deliberately simplified and is not intended to reproduce in every respect the elaborate procedure applicable to an ordinary civil suit.

39. The special character of that procedure becomes particularly relevant when the question is considered from the standpoint of framing of issues.

Order L Rule 1 CPC expressly excludes the application of certain provisions of the Code to Courts constituted under the Provincial Small Cause Courts Act, including the formal procedure relating to settlement of issues under Order XIV CPC. The legislative scheme, therefore, does not contemplate that a Small Cause Court must necessarily frame formal issues in the manner in which a regular civil court is required to do so in an ordinary suit.

40. The exclusion of the formal procedure for framing issues, however, cannot mean that the Court is relieved of the obligation to ascertain what the real controversy between the parties is and to adjudicate the material points arising from the pleadings and evidence. The purpose of excluding formal issues is to simplify and expedite the procedure; it is not to dispense with adjudication. The Court of Small Causes remains required to identify the questions which arise for determination and to record its conclusions upon the matters which are material for deciding the dispute before it.

41. This distinction between the formal framing of an “issue” and the determination of a “point in controversy” is important to the question presently under consideration. In a regular civil suit, the issues framed under Order XIV provide the formal framework within which the trial proceeds. In a Small Cause Court suit, the same result may be achieved without the formal process of framing issues. The absence of formally framed issues, therefore, does not signify absence of adjudication of the controversies which arise for decision.

42. The requirement of adjudication is also reflected in Order XX Rule 4(1) CPC, which, insofar as applicable, requires the judgment of a Court of Small Causes to contain the points for determination and the decision thereon. Thus, although the procedure is intended to be summary and informal, the judgment must nevertheless disclose the points which arise for determination and the Court's decision upon them. The statutory scheme consequently draws a clear distinction between dispensing with the formal mechanism of framing issues and dispensing with the adjudicatory obligation itself. The former is excluded; the latter is not.

43. The above distinction has a direct bearing upon the meaning to be attributed to “case decided” under Section 25. If every determination made on an interlocutory application were to be regarded as a “case decided” merely because the Court has separately considered and disposed of the application,

the special and expeditious character of Small Cause Court proceedings would be substantially diluted. The Court would be exposed to revisional challenges at successive stages of the proceeding, even though the determination in question may merely regulate the manner or sequence in which the suit is to proceed and may not finally determine any of the material controversies between the parties.

44. This approach finds support from the decisions of this Court which have considered the expression “case decided” in the context of interlocutory orders passed in proceedings governed by the special procedure applicable to Courts of Small Causes. In **Ramesh Chandra Sahu v. Subhash Chandra**², an order relating to interrogatories was held not to constitute a “case decided”. The decision is significant not merely for the particular nature of the application involved therein but for the principle underlying the determination: revisional jurisdiction cannot be invoked against every procedural order passed in the course of a Small Cause Court proceeding, since to permit such challenges would result in fragmentation of the proceedings and defeat the very object of providing a simplified and expeditious procedure.

45. Similar principles were reiterated by this Court in **Prakash Chandra v. Y.C.P. John**³, where the revision under Section 25 was directed against an order rejecting the defendant’s application for bringing the original cheque on record during the cross-examination of the plaintiff’s witness. The Court held that the impugned order, having been passed during the progress of the pending suit and not deciding the case or determining any right or obligation of the parties, did not amount to a “case decided” within the meaning of Section 25. The revision was accordingly held to be not maintainable.

46. The object of Section 25 is to ensure that the Court of Small Causes does not exercise a jurisdiction which it does not possess, does not fail to exercise a jurisdiction which the law confers upon it and does not act illegally or with material irregularity in the exercise of its jurisdiction. It is not intended to provide a revisional remedy against every step taken in the course of the trial. The provision must, therefore, be construed in a manner which preserves the supervisory safeguard contemplated by the Legislature while at the same time maintaining the expeditious character of Small Cause Court proceedings.

2 AIR 1988 All 246

3 1993 (2) ARC 495

47. It is in this statutory and procedural background that an order passed on an application under Section 10 CPC has to be examined. Section 10 embodies the rule of *res sub judice*. Where the statutory conditions prescribed therein are satisfied, the trial of a subsequent suit is required to be stayed. The provision regulates the continuation of the subsequent proceeding during the pendency of an earlier proceeding in which the matter in issue is directly and substantially in issue. It does not itself adjudicate the rights of the parties in the subsequent suit. An order under Section 10 consequently operates upon the progress of the proceeding rather than determining the substantive rights which constitute the subject matter of that proceeding.

48. The distinction becomes particularly important where an application under Section 10 CPC is rejected. The immediate consequence of such rejection is that the Court permits the pending suit to proceed. The order does not, by its very nature, decide the validity of the transaction which may be the subject matter of the earlier proceeding; it does not determine the title of either party; it does not finally determine the existence or otherwise of a landlord-tenant relationship; it does not adjudicate the liability to pay rent or the alleged default; and it does not decide the ultimate entitlement of the plaintiff to a decree for eviction. Those questions continue to remain open for adjudication in the suit.

49. The fact that the application under Section 10 is separately decided cannot alter the character of the determination. The substance of the order, and not the form in which the matter happens to come before the Court, must govern. If the mere disposal of an application were sufficient to constitute a “case decided”, every application affecting the conduct of the trial would potentially become the subject matter of a revision under Section 25. Such an interpretation would make the revisional jurisdiction available at successive stages of the proceedings and would enable a Small Cause Court suit to be interrupted by repeated challenges to interlocutory orders.

50. It would also lead to an anomalous consequence. A proceeding instituted for determination of a comparatively limited class of disputes and intended by the Legislature to be dealt with expeditiously could become subject to piecemeal revisional scrutiny on applications concerning adjournments, discovery, production of documents, procedural directions, reception of evidence, interrogatories and other matters regulating the course

of the trial. Such an interpretation would substantially defeat the legislative purpose underlying the special procedure applicable to Small Cause Courts.

51. This is not to suggest that an order passed under Section 10 CPC can never constitute a “case decided”. The question has to be determined having regard to the nature of the particular order, the statutory setting and the consequences flowing from it. The decision in **Ramrichpal Singh** makes it clear that an order under Section 10 is not, merely by reason of its interlocutory character, outside the concept of a “case decided” in every context. What follows, however, is that the principle cannot be divorced from the statutory framework in which the revisional jurisdiction is being exercised.

52. The distinction is particularly relevant where the Court allows an application under Section 10 and stays the trial of the subsequent suit. Such an order may have a materially different procedural consequence from an order rejecting the application. It affirmatively restrains the Court from proceeding with the trial and thereby determines, for the period during which the statutory conditions continue to operate, whether the subsequent proceeding can be taken forward. Whether such an order would constitute a “case decided” under Section 25 in a particular case need not be determined in the present proceedings, which are concerned only with an order rejecting the application.

53. The present case is confined to the converse situation. The petitioners sought stay of the proceedings under Section 10 read with Section 151 CPC. The application was rejected. The immediate legal consequence of that order is only that the Small Cause Court was permitted to continue with the suit. No substantive right of either party was thereby finally adjudicated upon. No decree was passed; no issue relating to title, ownership, Wakf character, landlordship, tenancy, default or eviction was conclusively determined; and no finding in the impugned order operates as the final adjudication of any such controversy.

54. The character of the order cannot be altered merely because the grounds urged in support of the application under Section 10 required the Court to examine the relationship between the earlier litigation and the subject matter of the pending suit. The Court was required to consider whether the statutory requirements of Section 10 were satisfied. Its conclusion that they were not satisfied enabled the suit to proceed. The adjudication was thus confined to the question whether the statutory embargo against proceeding

with the trial was attracted. It did not amount to adjudication of the substantive controversies which the suit itself was instituted to determine.

55. A contrary approach would also have the effect of making the availability of a revisional remedy depend upon the procedural form in which a party chooses to raise a particular objection. If an objection is raised at the stage of final adjudication, the resulting decision would undoubtedly form part of the judgment and decree. If the same objection is raised through an interlocutory application and rejected before the trial is concluded, treating the rejection itself as a separate “case decided” would permit the same controversy to be subjected to an independent revisional challenge before the trial has reached its conclusion. Such a construction would encourage piecemeal adjudication and would be inconsistent with the special procedure intended for Small Cause Court proceedings.

56. In the facts of the present case, the consequence is even more apparent. The order dated 07.03.2026 does not decide the validity or invalidity of the sale deeds dated 03.01.1992 and 07.01.1992; it does not determine whether the property in question is Wakf property; it does not conclusively decide whether the respondents derive the status of landlord from the said sale deeds; it does not determine whether the petitioners are tenants under the respondents or under the Wakf/Managing Committee; and it does not adjudicate the other questions relating to rent, default, notice or entitlement to eviction. All these matters, to the extent they arise from the pleadings and evidence, remain matters for adjudication in the suit.

57. The mere circumstance that the validity and effect of the sale deeds may also arise for consideration in the earlier proceedings pending in Second Appeal No. 306 of 2018 cannot convert the order rejecting the application under Section 10 into a final adjudication of those questions. The Section 10 application called upon the Court to determine whether the statutory conditions for staying the subsequent suit were fulfilled. The Court's refusal to stay the suit left the underlying controversies for determination in accordance with law. The distinction between deciding whether a proceeding should remain stayed and deciding the rights which are the subject matter of that proceeding must, therefore, be maintained.

58. The conclusion reached herein is thus confined to the nature of the particular order under challenge. The rejection of the application under

Section 10 read with Section 151 CPC, in the circumstances of the present case, merely permits the Small Cause Court proceedings to continue and does not constitute a determination of the substantive rights or liabilities of the parties. Such an order, therefore, cannot, merely because it has been passed upon a separately numbered interlocutory application, be treated as a “case decided” within the meaning of Section 25 of the Provincial Small Cause Courts Act.

59. The decision in **Ramrichpal Singh** does not compel a different conclusion. The Full Bench was examining the expression in the context of Section 115 CPC and was not concerned with the precise interplay between that expression and the special procedural scheme applicable to Courts of Small Causes. The decision establishes the proposition that an order under Section 10 is capable, in an appropriate statutory setting, of falling within the expression “case decided”; it does not lay down that every order under Section 10, irrespective of its nature, consequence and the statutory provision conferring revisional jurisdiction, must invariably be treated as a “case decided”.

60. The distinction is of some importance because Section 25 cannot be interpreted in isolation from the statutory purpose of the Provincial Small Cause Courts Act. The Legislature has deliberately provided a simplified procedure for a specified class of suits and has simultaneously confined the revisional jurisdiction to a “case decided”. If every interlocutory determination were treated as a case decided, the limitation incorporated by the Legislature would lose much of its practical significance. The revisional jurisdiction would then become a vehicle for challenging successive procedural orders, with the inevitable consequence of delaying the very proceedings which the statute seeks to have determined expeditiously.

61. The expression “case decided” must, therefore, receive an interpretation which gives effect both to the corrective jurisdiction under Section 25 and to the legislative policy underlying the special procedure. The test cannot be whether the Court has passed an order upon an application; the relevant inquiry is whether the order amounts to a decision of the case, or of a matter having such adjudicatory character and consequence as to fall within the expression as used in Section 25. In the present case, the order rejecting the application under Section 10 does not answer that description.

62. The preliminary objection raised on behalf of the respondents that the order dated 07.03.2026 is revisable under Section 25 of the Provincial Small Cause Courts Act and that, consequently, the present petition under Article 227 is not maintainable, therefore, cannot be accepted. The impugned order, being an order which merely permits the pending suit to proceed and does not finally or independently determine any substantive right or liability of the parties, does not constitute a “case decided” within the meaning of Section 25 in the circumstances of the present case.

63. It is clarified that this Court is not called upon, in the present proceedings, to lay down as an absolute proposition that every order allowing or rejecting an application under Section 10 CPC would necessarily fall outside or within the expression “case decided”. The question is necessarily dependent upon the nature, effect and legal consequence of the particular order and the statutory context in which the revisional jurisdiction is invoked. The present determination is confined to an order rejecting the prayer for stay and thereby permitting the trial to continue.

64. Having held that the preliminary objection to the maintainability of the petition under Article 227 cannot be sustained on the ground that the impugned order is revisable under Section 25 of the Provincial Small Cause Courts Act, the merits of the challenge must be examined independently. The exercise of jurisdiction under Article 227 is, however, not in the nature of an appellate examination of the correctness of every interlocutory determination. The question at this stage would be whether, while declining to stay the proceedings, the Court below has acted within the jurisdiction vested in it, has applied the statutory principles governing the exercise of that jurisdiction, and has committed any jurisdictional error, material illegality or failure to exercise jurisdiction warranting interference under Article 227 of the Constitution. Before undertaking that examination, it is necessary to consider the second foundational question concerning the manner in which controversies are to be identified and determined in a proceeding before the Court of Small Causes, particularly in view of Section 17 of the Provincial Small Cause Courts Act and Order L Rule 1 CPC.

Consideration of the challenge to the order dated 09.10.2025

65. The second foundational question, therefore, concerns the nature and extent of the obligation of a Court of Small Causes to identify and determine

the controversies arising between the parties, notwithstanding the exclusion of the formal procedure for settlement of issues under Order XIV CPC. This question assumes direct relevance to the order dated 09.10.2025, whereby Applications Nos. 159-Ga and 164-Ga filed by the petitioners seeking formulation of additional issues, have been rejected. The challenge to the said order has, therefore, to be examined not on the premise that the petitioners possess an absolute right to have every question proposed by them separately framed as an issue, but on the question whether, in declining to frame the proposed issues, the learned trial court has failed to recognise any material controversy arising from the pleadings which necessarily requires determination for deciding the suit.

66. The record indicates that seven issues had initially been framed by the learned trial court on 21.05.2019. Thereafter, the petitioners sought formulation of as many as sixteen additional issues. The proposed issues relate, inter *alia*, to the alleged Wakf character of the disputed property, the assertion of the petitioners that they are tenants under the Wakf and its Managing Committee, the existence of the relationship of landlord and tenant between the parties, the authority of the Managing Committee to realise rent, the nature of user of the premises, the validity and service of the notice dated 25.07.2016, the effect of the judgment dated 03.04.2007 passed by this Court in Writ Petition No. 57514 of 2006, the plea of *res judicata*, the effect of the order dated 28.05.1990, the applicability of Sections 83 and 85 of the Wakf Act, 1995, and the validity and effect of the sale deeds dated 03.01.1992 and 07.01.1992.

67. The petitioners contend that these questions arise directly from their pleadings and constitute material matters requiring adjudication before the suit can effectively be decided. Particular emphasis has been placed upon the plea that the disputed property is Wakf property and that the petitioners are tenants under the Wakf and its Managing Committee and not under the respondents. It is urged that, once such a defence is raised, the very existence of the landlord-tenant relationship asserted by the plaintiffs stands specifically controverted. According to the petitioners, the question whether the respondents possess the status of landlord vis-a-vis the petitioners consequently assumes significance, and the further plea regarding the jurisdiction of the Court of Small Causes is also required to be addressed in that context.

68. There can be no dispute with the proposition that a party is not entitled, as of right, to insist upon the framing of every question arising from its pleadings as a separately numbered issue in a proceeding before a Court of Small Causes. As noticed above, Order L Rule 1 CPC expressly excludes the application of the provisions relating to settlement of issues contained in Order XIV. The legislative scheme is thus to dispense with the formal and potentially elaborate exercise of issue-framing which ordinarily precedes the trial of a regular civil suit. The exclusion, however, is of the **procedure of formal settlement of issues** and not of the duty to adjudicate the material controversies upon which the rights of the parties depend.

69. The distinction is of some importance in the present case. The absence of formally framed issues cannot be understood to mean that a plea specifically raised by a defendant, if otherwise relevant to the adjudication of the suit, may be left unanswered. A Court of Small Causes is required to ascertain from the pleadings the real controversies between the parties, identify the points which arise for determination, permit the parties to lead such evidence as may be necessary upon those points and render a decision thereon. The form in which those points are recorded is secondary; their adjudication is not.

70. This position is also borne out by Order XX Rule 4(1) CPC, which, in relation to judgments of Courts of Small Causes, dispenses with the elaborate form otherwise prescribed for judgments and requires the judgment to contain no more than the points for determination and the decision thereon. The provision is consistent with the scheme of Order L Rule 1. What is contemplated is a focused determination of the points which genuinely arise in the suit, rather than a formal exercise of framing issues in the manner applicable to ordinary civil proceedings.

71. The legal position in this regard has recently been examined by this Court in **Raju Kashyap and 2 others v. Smt. Archana Jain**⁴, in the context of a proceeding before a Court of Small Causes where the defendants had sought framing and adjudication of a plea of *res judicata* as a preliminary issue. After examining Section 17 of the Provincial Small Cause Courts Act, Order L Rule 1(a)(iii) and Order XX Rule 4(1) CPC, this Court held that the exclusion of the provisions relating to the settlement and framing of issues does not denude

4 2026:AHC:164125

the Court of its jurisdiction or obligation to identify and adjudicate the real controversies arising between the parties. The exclusion is procedural; it dispenses with the formal exercise of framing issues in the manner contemplated by Order XIV, but does not dispense with the requirement that the Court formulate the points for determination and record its decision thereon. The Court, in this context, relied upon the judgment of the Supreme Court in **Rameshwar Dayal v. Banda (Dead) through LRs**⁵, wherein it was recognised that although the procedure relating to settlement and framing of issues under Order XIV stands excluded in proceedings before a Court of Small Causes, the “points for determination” contemplated by Order XX Rule 4(1) are, in substance, the matters which would otherwise arise for determination as issues under Order XIV. Thus, the absence of formally framed issues cannot be treated as dispensing with the adjudicatory obligation of the Small Causes Court.

72. The aforesaid principle provides the appropriate framework for examining the present controversy. A Court of Small Causes is neither required nor expected to reproduce the formal procedure of settlement of issues applicable to an ordinary civil suit; nevertheless, it must ascertain from the pleadings the material controversies which require determination and decide those points in accordance with Order XX Rule 4(1) CPC. The decision in **Raju Kashyap** also makes clear that the exclusion of Order XIV does not confer upon a party an absolute right to insist upon the framing of a particular plea as a separate preliminary issue. Whether a particular plea or controversy is required to be determined at the threshold, or is to be considered along with the other matters arising in the suit, depends upon the nature of the enquiry necessary for its determination. The governing consideration, therefore, is not the formal framing of an issue but the identification and adjudication of every material point necessary for deciding the controversy before the Court.

73. Tested on the aforesaid principle, the question before this Court is not whether each of the sixteen proposed issues ought to have been separately framed. Such an exercise would, in substance, reintroduce the very procedure which Order L Rule 1 has excluded. The proper inquiry is whether the matters covered by the proposed issues disclose substantive controversies which are relevant to the relief claimed in the suit and which the trial court would necessarily be required to address while deciding the suit.

5 (1993) 1 SCC 531

74. In this regard, the plea relating to the alleged Wakf character of the property forms part of the defence set up by the petitioners. The petitioners have pleaded that the property belongs to the Wakf, that their tenancy was under the Wakf or its Managing Committee and that the respondents, on the basis of the disputed sale deeds, cannot claim the status of landlord. The effect of these pleadings and their relevance to the controversy between the parties would fall for consideration in accordance with the pleadings and material on record.

75. Likewise, the petitioners have disputed the status of the respondents as landlords vis-à-vis the petitioners. The plaintiffs, on the other hand, have instituted the suit asserting the relationship of landlord and tenant and seeking reliefs founded upon such relationship. The question as to the existence and nature of the relationship asserted by the respective parties thus arises from their pleadings. The extent to which the respective pleas are established or otherwise would be a matter for adjudication on the basis of the evidence and material brought on record.

76. The same applies to the plea relating to jurisdiction. The petitioners have contended that, if the property is Wakf property and the rights asserted by the parties are governed by the Wakf Act, the jurisdiction of the Court of Small Causes may be affected. The respondents dispute the basis and effect of such plea and rely upon the Wakf-related proceedings and other material on record. Whether the plea is legally sustainable, and if so, what consequence follows from it, would depend upon the determination of the relevant factual and legal questions in the proceedings. At this stage, the Court is concerned only with whether such matters arise from the pleadings and require consideration, and not with expressing any concluded view upon their merits.

77. The fact that a matter arises from the pleadings and requires consideration does not, however, mean that every legal proposition or plea contained in the defence must necessarily be converted into an independent point for determination. Questions concerning the evidentiary effect of particular documents, the consequence of individual orders, the applicability of a statutory provision to a particular set of facts, or the legal effect of an earlier judgment may overlap with the principal controversy and may appropriately be considered while recording findings on the material points arising for determination. The Small Causes Court is not required to multiply

the points for determination merely because the defence has been elaborately pleaded.

78. The proposed issues concerning the validity and effect of the sale deeds dated 03.01.1992 and 07.01.1992 require a similar approach. The validity of those instruments has been placed in issue by the petitioners and is also the subject matter of Second Appeal No. 306 of 2018. The pendency of that appeal and its effect upon the present suit fall for consideration separately while examining the challenge to the order dated 07.03.2026. For purposes of the present order, however, it is sufficient to observe that the existence of a controversy concerning the sale deeds does not, by itself, require the trial court to frame a separate formal issue in precisely the language proposed by the petitioners. The court may determine the extent to which that controversy is material to the relief claimed in the suit and deal with it as a point for determination.

79. There is another circumstance which bears upon the challenge to the order dated 09.10.2025. In SCC Revision No. 56 of 2022, this Court, by order dated 28.04.2022, had permitted the trial court to frame additional issues or points of determination, *if required*. The expression “if required” is significant. The earlier order did not confer upon the petitioners an unconditional entitlement to have every proposed issue formally framed. It left the matter to be examined by the trial court in the context of the pleadings and the actual requirements of adjudication.

80. The order dated 09.10.2025 has also taken note of the fact that the suit was instituted in the year 2016 and that directions had earlier been issued for its expeditious disposal. The learned trial court further noticed that the evidence of the plaintiff had not yet been completed and that the material points could be considered at the appropriate stage. The age of the suit and the need for expeditious disposal are undoubtedly relevant considerations in proceedings before a Court of Small Causes. They cannot, however, be permitted to displace the more fundamental requirement that all material controversies necessary for deciding the suit must be addressed.

81. Thus, the direction for expeditious disposal cannot be construed as authorising the trial court to shut out a relevant defence or to avoid a finding upon a material question merely because no formal issue has been framed in respect thereof. Conversely, the requirement of adjudication of material

controversies cannot be converted into a right to proliferate formal issues and thereby defeat the summary character of the proceedings.

82. On a careful consideration of the order dated 09.10.2025, this Court is of the view that the learned trial court has essentially proceeded on the correct understanding of the special procedure governing a suit before a Court of Small Causes. The rejection of the applications seeking formulation of sixteen additional issues cannot, by itself, be said to constitute a failure to exercise jurisdiction, particularly when the trial court had already framed seven issues and had noticed the earlier order dated 28.04.2022 permitting additional issues or points of determination if required.

83. Nevertheless, the order dated 09.10.2025 has to be understood in the light of the legal position explained above. The rejection of the applications cannot be taken to mean that the controversies specifically raised by the petitioners, particularly those concerning the Wakf character of the property, the asserted tenancy under the Wakf or Managing Committee, the relationship of landlord and tenant between the parties and the jurisdiction of the Court, stand excluded from consideration. If any such controversy arises from the pleadings and is found material to the determination of the reliefs claimed in the suit, it will have to be considered and decided, whether or not it is separately numbered as an issue.

84. The appropriate course, therefore, is not to direct the learned trial court to mechanically frame the sixteen additional issues proposed by the petitioners. Such a direction would be inconsistent with the scheme of Order L Rule 1 CPC and would unnecessarily formalise proceedings in which the legislature has deliberately dispensed with the settlement of issues. What is required is that, at the stage of final adjudication, the learned trial court should identify the material points which arise from the pleadings and record its findings upon all such points as are necessary for determining the rights of the parties and the reliefs claimed in the suit.

85. The challenge to the order dated 09.10.2025 is, accordingly, not liable to be accepted to the extent it seeks a direction for formal framing of each of the additional issues proposed by the petitioners. At the same time, the order cannot be understood as authorising omission of any material controversy merely because a separate issue has not been framed in respect thereof. The

distinction between formal issue-framing and substantive adjudication must be maintained throughout the further proceedings.

86. The position may thus be stated succinctly. In a proceeding before a Court of Small Causes, a party has no vested right to insist upon the formal framing of every question arising from its pleadings as a separate issue. The exclusion of Order XIV by Order L Rule 1 dispenses with such formal exercise. The corresponding obligation of the Court, however, is to identify and determine every material point which is necessary for adjudication of the suit. The sufficiency of the existing issues is consequently to be assessed not by counting them, but by examining whether, taken together with the pleadings and the points for determination, they enable the Court to adjudicate the real controversy between the parties.

87. Subject to the aforesaid clarification, the order dated 09.10.2025 does not disclose any jurisdictional error or patent illegality warranting interference in exercise of the supervisory jurisdiction of this Court under Article 227 of the Constitution. The applications for framing additional issues were rightly not treated as conferring an absolute right upon the petitioners to enlarge the formal issues in the suit. The learned trial court shall, however, ensure that all material pleas and controversies which arise for determination are dealt with in the judgment, in accordance with law.

Challenge to the order dated 07.03.2026 — application under Section 10 read with Section 151 CPC

88. The remaining question concerns the challenge to the order dated 07.03.2026 rejecting the petitioners' Application No. 176-Ga under Section 10 read with Section 151 CPC. The issue requires consideration in the context of the pendency of Second Appeal No. 306 of 2018, the nature of the controversy involved therein and the extent to which the adjudication in that appeal is directly and substantially connected with the matters requiring determination in the pending J.S.C.C. suit.

89. The foundation of the application was that the respondents claim ownership and landlordship over the disputed property on the strength of the sale deeds dated 03.01.1992 and 07.01.1992, whereas the validity of the very same sale deeds is involved in Second Appeal No. 306 of 2018. According to the petitioners, any adjudication in the present suit on the respondents' status as owners or landlords may result in a finding which would overlap with, or

even conflict with, the determination ultimately to be made in the second appeal.

90. The submission cannot be regarded as wholly without substance in the abstract. The respondents' asserted landlordship is founded upon the sale deeds which are also the subject matter of the pending litigation. The existence of such a connection, however, is not by itself sufficient to attract Section 10 CPC. The statutory test remains whether the matter directly and substantially in issue in the subsequently instituted proceeding is also directly and substantially in issue in the previously instituted proceeding.

91. The present J.S.C.C. suit has been instituted for eviction and recovery of arrears of rent. The plaintiffs assert the existence of a landlord-tenant relationship and seek relief against the defendants on that basis. The litigation culminating in Second Appeal No. 306 of 2018, on the other hand, arises from proceedings in which the validity and cancellation of the sale deeds dated 03.01.1992 and 07.01.1992 are directly involved. The two proceedings thus have a factual and legal connection, but the existence of such connection cannot be equated with identity of the matter directly and substantially in issue.

92. The distinction is material. Section 10 CPC is not attracted merely because the determination of an issue in one proceeding may have a bearing upon, or may constitute evidence relevant to, an issue arising in another proceeding. The expression "matter in issue" in Section 10 qualifies the subject matter which must be directly and substantially in issue in both proceedings. The provision is therefore attracted where the adjudication in the previously instituted proceeding is of such a nature that the same matter, between the same parties or parties claiming under them, would necessarily fall for adjudication in the subsequently instituted proceeding. A mere possibility of some overlapping consideration is insufficient.

93. This distinction assumes particular significance in proceedings before a Court of Small Causes. The Court is not called upon in the present suit to adjudicate the entire title to the property in the manner in which a regular civil court may be required to do in a suit seeking declaration of title or cancellation of an instrument. Its immediate task is to determine the controversy falling within its jurisdiction, including, where necessary, the existence of the

relationship of landlord and tenant and the entitlement of the plaintiff to the relief claimed.

94. The petitioners have specifically denied the respondents' landlordship and have asserted that they are tenants under the Wakf. It is also the case of the petitioners that the respondents trace their asserted title to the disputed sale deeds. These circumstances may require the trial court to examine the competing pleas and the legal effect of the documents relied upon by the parties. But the necessity of considering an aspect of the title or the source of landlordship in order to decide the present suit does not, without more, make the present suit and the second appeal proceedings identical for the purposes of Section 10 CPC.

95. The distinction between a matter which is directly and substantially in issue and a matter which may arise incidentally or collaterally has to be maintained. If the latter were sufficient to attract Section 10, the pendency of any proceeding concerning an antecedent transaction or document having some bearing upon the rights asserted in a subsequent suit could indefinitely arrest the subsequent proceedings. Such an interpretation would enlarge the statutory embargo beyond its express terms and would be inconsistent with the requirement that the matter in issue must be directly and substantially the same.

96. The order dated 22.11.2022 passed in Second Appeal No. 306 of 2018, relied upon by the petitioners, merely records the contentions advanced in the proceedings and does not disclose any adjudication upon the questions sought to be relied upon in the present case. The second appeal has not been admitted and no interim order has been passed therein. The mere pendency of the second appeal, therefore, does not establish that the matter directly and substantially in issue in the present suit is the same matter which awaits adjudication in the second appeal.

97. The respondents have, on the other hand, relied upon the subsequent proceedings before the Wakf authorities and the order dated 27.01.2015 passed by the Wakf Tribunal. According to the respondents, the Wakf Board had withdrawn its earlier orders and the disputed property had thereafter been excluded from the relevant Wakf register. It has also been contended that the order of the Wakf Tribunal was never challenged and had attained finality.

98. These circumstances were noticed by the learned trial court while considering the application for stay. This Court is not, at this stage, called upon to finally determine the effect of those proceedings upon the status of the property. Their ultimate evidentiary and legal effect, to the extent relevant, will have to be considered by the court competent to adjudicate the controversy. For purposes of the application under Section 10, however, the existence of these proceedings was a relevant circumstance in assessing whether continuation of the present suit would necessarily result in determination of the same matter which is pending before this Court in the second appeal.

99. The trial court also took note of the earlier J.S.C.C. Suit No. 121 of 1996, in which, according to the material placed before it, the predecessor-in-interest of the petitioners had pleaded that rent was remitted to respondent no.1 through money orders, which were returned, whereafter the rent was deposited in Court. The respondents rely upon these pleadings as an admission of the landlord-tenant relationship.

100. The evidentiary value and legal effect of those pleadings cannot, however, be finally determined in an application for stay. Whether the earlier pleadings amount to an admission, whether such admission is binding, and whether it is capable of being explained or displaced by other evidence are matters which fall for consideration at the stage of final adjudication. The trial court was nevertheless justified in taking note of the earlier litigation while considering whether the present proceedings ought to be stayed.

101. Another circumstance noticed by the learned trial court is that no order has been passed in Second Appeal No. 306 of 2018 staying the proceedings of the present J.S.C.C. suit. The absence of a stay order, by itself, does not determine the applicability of Section 10 CPC, since the statutory conditions of that provision have to be independently satisfied. It is nevertheless a relevant circumstance while considering whether the proceedings before the trial court should be continued or stayed in exercise of the inherent jurisdiction of the Court under Section 151 CPC.

102. The petitioners have also invoked Section 151 CPC. The inherent jurisdiction of the Court is intended to secure the ends of justice and prevent abuse of the process of the Court; it cannot, however, be employed to circumvent the substantive requirements governing the exercise of the

statutory power under Section 10 CPC. Where the conditions of Section 10 are not satisfied, mere apprehension of an overlapping or potentially relevant finding cannot, by itself, furnish a sufficient basis for indefinitely staying a pending proceeding.

103. More importantly, the contention of the petitioners proceeds on the basis that the questions arising in the present suit concerning the respondents' asserted landlordship and the documents relied upon by them are the same questions which are directly and substantially in issue in Second Appeal No. 306 of 2018. The mere fact that the pleadings or documents in the two proceedings may give rise to some common or overlapping questions does not, however, by itself establish the identity of the matters in issue required for the applicability of Section 10 CPC. The question has to be examined with reference to the nature of the controversy in each proceeding, the reliefs sought therein and the matters which are directly and substantially in issue.

104. It would equally be inappropriate for this Court, while examining an interlocutory order refusing stay, to pre-judge the ultimate controversy concerning the validity of the sale deeds or the Wakf character of the property. Those questions, to the extent they arise for determination before the court below, must be considered on the pleadings, evidence and applicable law, and not on the basis of any *prima facie* observation made in the present proceedings.

105. The controlling consideration, therefore, is not whether the two proceedings have some common factual foundation, or whether the decision in one may have a bearing upon the other. The question is whether the adjudication sought in the present J.S.C.C. suit would necessarily require determination of the very matter which is directly and substantially pending before this Court in Second Appeal No. 306 of 2018. On the material placed before the Court, that degree of identity has not been established.

106. On an overall consideration, therefore, the mere pendency of Second Appeal No. 306 of 2018 does not satisfy the requirements of Section 10 CPC so as to mandate stay of the present J.S.C.C. suit. Nor has any exceptional circumstance been demonstrated warranting exercise of the inherent jurisdiction under Section 151 CPC to arrest the proceedings. The apprehension of the petitioners that an inconsistent finding may ultimately

emerge cannot substitute the statutory requirement of identity of the matter directly and substantially in issue.

107. The learned trial court, while passing the order dated 07.03.2026, considered the pendency and nature of the earlier litigation, the subsequent proceedings before the Wakf authorities, the pleadings in the earlier J.S.C.C. Suit No. 121 of 1996 and the absence of any order staying the present proceedings. Its conclusion that the pendency of Second Appeal No. 306 of 2018 did not furnish sufficient ground for staying the present suit cannot be characterised as perverse, arbitrary or as suffering from a jurisdictional error.

108. The challenge to the order dated 07.03.2026, therefore, also fails.

Conclusion

109. The petition is, accordingly, **dismissed**. The learned trial court shall proceed with the suit in accordance with law and endeavour to bring the proceedings to their logical conclusion expeditiously, having regard to the fact that the suit has remained pending since the year 2016 and is stated to be subject to directions for expeditious disposal.

110. It is made clear that the dismissal of the present petition shall not prejudice the rights or contentions of either party in the pending suit, save to the extent of the legal principles expressly determined in this judgment. The trial court shall decide the controversy independently on the material properly brought on record before it and in accordance with law.

(Dr. Yogendra Kumar Srivastava, J.)

August 20, 2026

RKK/-