

(1921) 04 AHC CK 0025
In the Allahabad High Court

Babu Lal and Another

APPELLANT

Vs

Muhammad Ghazanfar-Ullah

RESPONDENT

Date of Decision : 20-04-1921

Acts Referred:

Citation : (1921) ILR (All) 614

Hon'ble Judges : Tudball, J;Lindsay, J;Kanhaiya Lal, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

Tudball, Lindsay and Kanhaiya Lal, JJ.—This is an application in revision from a decision of the Judge, Small Cause, Court, Allahabad. The plaintiffs are the lessees of a certain mandi in Allahabad town. The defendant is a person who took a contract from the Municipal Board of Allahabad to build or repair a very small drain in this mandi and also to repair certain roads outside the mandi. He stacked upon the land of the mandi not only materials for the building of the drain but also materials for the repairing of the road outside. These materials were stacked for at least two months. The plaintiffs sued him for damages for his unlawful act in that he stacked all these materials, that is, chiefly the materials for the repairing of the road, on his land, and thereby prevented him from using it. The court below has decreed the claim.

2. The point raised in this Court was, that the suit would not lie because Section 42 of the Sewerage and Drainage Act of 1894 applied and compensation could only be obtained in the manner laid down in that section. As a matter of fact, the aforesaid Act has been repealed and is no longer in force. It was repealed by the Municipalities Act of 1916, vide Schedule 9 of that Act. It is urged before us that Section 324 of the Municipalities Act would apply. This argument clearly has no force. This is not an act done by the Municipal Board or by any member or any officer or servant thereof nor is it an act in regard to which the Municipalities Act lays down that compensation should be payable by the Municipal Board. There is no force whatsoever in the application. It is therefore dismissed with costs.