

(1951) 07 GAU CK 0011
In the Gauhati High Court
Case No : Civil Revision No. 12 of 1951

Badrinarayan Agarwalla

APPELLANT

Vs

Bhupendra Kumar Dhar and Another

RESPONDENT

Date of Decision : 30-07-1951

Acts Referred:

Rules for Administration of Justice and Police in the Naga Hills District, 1937 — Rule 30

Citation : AIR 1953 Guw 89

Hon'ble Judges : T.V. Thadani, C.J.; Haliram Deka, J

Bench : Division Bench

Advocate : A.P. Goswami and P.N. Roy, for the Appellant; G.K. Deb, for the Respondent

Final Decision : Dismissed

Judgement

Thadani, C.J.—This is an application, described as an application u/s 115, Civil P. C., but is an application under Rule 34 of the Rules framed for the Administration of Justice in the Naga Hills District, directed against an order of the D. C., Naga Hills, dated 8-9-50, by which he affirmed the order of the Assistant to the Deputy Commissioner, Naga Hills, who declined to execute a decree passed by the Dimapur Town Committee Panchayat on the ground that the decision of the Panchayat has not been accepted by a competent Court.

2. While we think the decision of the Courts below is correct, the reasons given by the Assistant to the Deputy Commissioner and accepted by the learned Deputy Commissioner are not correct. The parties to the case are not indigenous inhabitants of the Naga Hills District. The plaintiff is a Marwari and the defendant a Bengali. Rule 30 of the Rules framed for the Administration of Justice in the Naga Hills District makes it obligatory upon the officers mentioned in Rule 30 to induce the parties to submit their case to a panchayat only when the parties are indigenous inhabitants of the Naga Hills. Manifestly the reference made by the learned Assistant to the Deputy Commissioner to the panchayat was not authorised by any Rule framed for the Administration of Justice in the Naga Hills.

The decision of the panchayat being without jurisdiction, the question of its acceptance did not arise. The decision of the panchayat must be regarded as non-existent. It is for this reason and for the reasons given by the Courts below that the refusal to execute the decree can be sustained.

3. The result is that the petition is dismissed, but we make no order as to costs in the circumstances of the case. The suit must now be re-tried and disposed of according to law by the Assistant to the Deputy Commissioner, Naga Hills.

Deka, J.

4. I agree.