
(1967) 11 AHC CK 0036
In the Allahabad High Court
Case No : Special Appeal No. 122 of 1965

Budha	Vs	APPELLANT
Munsif East, Hardoi and others		RESPONDENT

Date of Decision : 28-11-1967

Acts Referred:

Negotiable Instruments Act, 1881 (NI) — Section 4

Citation : (1968) 38 AWR 211

Hon'ble Judges : V.G. Oak, C.J;K.C. Puri, J

Bench : Division Bench

Advocate : Keshri Bir Prasad, for the Appellant;

Final Decision : Dismissed

Judgement

V.G. Oak, C.J.—This special appeal arises out of proceedings before a Nyaya Panchayat. Jugul Kishore brought a money claim based on a promissory note against Budha. The case was disposed of by a Nyaya Panchayat in district Hardoi. The Plaintiff's claim was decreed. A revision filed by Budha Defendant was dismissed by the Munsif East, Hardoi. A writ petition filed by Budha was dismissed by a learned Single Judge of this Court. Budha has, therefore, come up in special appeal.

2. The sole point urged before us is that a Nyaya Panchayat in Uttar Pradesh has no jurisdiction to try a money claim based on a promissory note. In support of this contention, reliance has been placed on Raj Kumar Singh v. Mahant 1964 AWR 407. In that case it was held by Manchanda, J. that a Nyaya Panchayat has no jurisdiction to try a civil case for money based on a promissory note. That decision no doubt lends support to the contention of the Learned Counsel for the Appellant. But, in our opinion, Raj Kumar Singh's (1) case has not been correctly decided.

3. The Learned Counsel relies upon entries Nos. 46 and 95 of List I and entry No. 65 of List II of the Seventh Schedule to the Constitution of India. Entry No. 46 of

List I is:

Bills of exchange, cheques, promissory notes and other like instruments.

Entry No. 95 of List I is:

Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this list; admiralty jurisdiction.

Entry No. 65 of List II is:

Jurisdiction and powers of all Courts, except the Supreme Court with respect to any of the matters in this List.

Relying on these three entries in the two Lists, the Learned Counsel urged that courts established by Uttar Pradesh Legislature are not competent to deal with suits touching promissory notes.

4. A similar contention was advanced before the Supreme Court in the State of Bombay Vs. Narothamdas Jethabai and Another, . By Bombay Act No. XL of 1948 the State Legislature created an additional Civil Court for greater Bombay having jurisdiction to try all suits of a civil nature not exceeding a certain value. It was contended for the Respondents that the statute was ultra vires the Legislature of the State of Bombay, because it confers jurisdiction on the new Court not only in respect of matters which the Provincial Legislature is competent to legislate upon under List II, Schedule 7 of the Government of India Act, 1935, but also in regard to matters in respect of which only the Central or Federal Legislature can legislate under List I. That contention was rejected by the Supreme Court. Fazl Ali, J. observed on page 73:

The words "administration of justice; constitution and organisation of Courts" are by themselves sufficient to empower the Provincial Legislature to invest a new Court with all the power which has been conferred upon it by the impugned Act. It is of course open to the Central Legislature to bar the jurisdiction of the new Court by a special enactment with regard to any of the matters in List I, but so long as such jurisdiction is not barred, the Court will have jurisdiction to try all suits and proceedings of a civil nature as enacted in the Act in question.

It is true that the discussion of the problem was with reference to the provisions of the Government of India Act, 1935. But the same reasoning will apply with reference to the various items of the three Lists contained in the Seventh Schedule to the Constitution of India.

5. It was conceded for the Appellant that Civil Judge's and Munsifs in Uttar Pradesh have jurisdiction to try suits based on promissory notes. But it was explained that that is the position because those Courts have been created by Central Acts. We have seen that although the new Court was created by the Legislature of Bombay, the Supreme Court held that the new Court was competent to try all suits of a civil nature including suits touching items in List I. It follows that it is open to UP Legislature to create new Courts with jurisdiction

to try all suits of civil nature.

6. Section 64 of the UP Panchayat Raj Act defines the extent of jurisdiction of Nyaya Panchayat in civil cases, Sub-section (1) of Section 64 states:

Subject to the provisions of Section 65 a Nyaya Panchayat may take cognizance of any civil case of the following description if its value does not exceed five hundred rupees--

(a) a civil case for money due on contract, other than a contract in respect of immovable property;

(b) a civil case for the recovery of movable property or for the value thereof;

(c) a civil case for compensation for wrong-fully taking or injuring a movable property; and

(d) a civil case for damages caused by cattle trespass.

... ..

7. It will be noticed that u/s 64 of the Act civil cases of certain classes have been placed within the jurisdiction of Nyaya Panchayat. Clause (a) deals with money suits based on contract except a contract in respect of immovable property. Clause (b) relates to suits for recovery of movable property. Clause (c) covers suits for compensation. And Clause (d) covers suits for damages caused by cattle trespass. It will be seen that a limited class of claims based on tort has been brought within the scope of Clause (d). Torts of other kinds are not within the jurisdiction of Nyaya Panchayats.

8. On examining the general plan of Section 64 of the Act, it appears that the Legislature intended to empower Nyaya Panchayats to try all money suits based on contract other than a contract in respect of immovable property. The plaint filed by Respondent No. 3 against the Appellant is not before us. But we take it that the plaint must have been in the usual form where a lender of money sues the borrower of money on the basis of a promissory note. A promissory note has been defined in Section 4 of the Negotiable Instruments Act:

A "promissory note" is an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument.

9. This definition suggests that a promissory note is by itself a species of a contract. It may be that a promissory note is signed by the promisor alone and not by the promisee. But in essence a promissory note is an undertaking to pay money to another party. Even in a suit based on a promissory note the claim is essentially on Contract. There is, therefore, no difficulty in treating such a claim as a claim for money due on contract. Such a claim; is, covered by Clause (a) of Section 64 of the Panchayat Raj Act, Nyaya Panchayats have jurisdiction to try

such suits.

10. The appeal is dismissed with costs to Respondent No. 3.