
(1961) 07 MP CK 0023
In the Madhya Pradesh High Court
Case No : M.P. No. 56 of 1960

Cauribai

APPELLANT

Vs

Sarpanch Gram Panchayat, Agra

RESPONDENT

Date of Decision : 12-07-1961

Acts Referred:

Citation : (1961) JLJ 1116

Hon'ble Judges : V.R. Nevaskar, J; H.R. Krishnan, J

Bench : Division Bench

Advocate : S.R. Phadnis and K.L. Sethi, for the Appellant; A.M. Mathur, for the Respondent

Final Decision : Allowed

Judgement

V.R. Newaskar, J.—This is a petition under Articles 226 and 227 of the Constitution of India. We propose to consider it as under Article 227 of the Constitution in this case.

2. The circumstances leading to the petition are as follows : Plot No. 24 in the village Ushapura in Depalpur tahsil was claimed by the petitioner Gauribai as her own. According to her there was an old house standing on this plot which she wanted to reconstruct. On 5-2-1958 the petitioner through her husband Kaluram applied to the Gram Panchayat Agra within whose jurisdiction the village Ushapura is situated for permission to reconstruct her house on the aforesaid plot. She was granted permission under an order dated 12-2-1958 issued under the signature of the Sarpanch Gram Panchayat Agra. Thereafter opponent Kashibai submitted an application to the Gram Panchayat Agra contending that the said plot did not belong to the petitioner but belonged to her and that she wanted to reconstruct her own house over the same. It was also stated in the application that petitioner's husband Kalu s/o Puna was making preparations for reconstruction of his house over her plot. He should be prevented by means of an order or injunction from proceeding with his construction. The application was dated 15-2-1958. The Gram Panchayat, under the signature of the Sarpanch,

directed issue of notice to the petitioner calling upon her to stop the reconstruction of her house and to present herself at the office of the Gram Panchayat on a specified day for an enquiry into the controversy between herself and Kashibai. Thereafter the parties adduced evidence before the Gram Panchayat regarding their respective title on consideration of which it was held that the petitioner had obtained permission to build by fraudulent representation as to her title. That order therefore was cancelled and the petitioner was called upon to remove the construction. Petitioner's husband Kaluram was fined Rs. 5 for his fraudulent act. There was an appeal preferred to the Collector by the petitioner against this order. The appeal was how ever dismissed as neither the petitioner nor her counsel were present when the matter came up for hearing.

3. The present petition is directed against the decision of the Gram Panchayat date 24-7-1958 wherein they considered the question of competing title of the petitioner and the opponent Kashibai, upheld that of the opponent Kashibai and directed the petitioner to remove the construction made under the shelter of the order dated 12-2-1958.

4. It is contended on behalf of the petitioner that the Gram Panchayat had no jurisdiction to go into the question of title and to cancel the permission already granted on a finding against the petitioner regarding the same.

5. This contention of the petitioner appears to be well founded. The duties of the Gram Panchayat are indicated in Chapter III of the Madhya Bharat Panchayat Vidhan. Section 31 sub-clause (13) (c) of that Chapter empowers the Gram Panchayat to control and improve the village site, regulate the construction of a new buliding or the addition or alteration of the existing building or the addition or alteration of the existing building in the performance of this duty the Gram Panchayat is not authorized to consider the competing titles of the contending parties and to grant or refuse permission for reconstruction of any building. Under the Panchayat Act only the Nyaya Panchayat constituted under the Act has been confided with a limited power to decide Civil disputes between the parties. This is contained in Section 67 of the Act. It includes a suit for money due on a contract other than a contract in respect of immovable property, a suit for recovery of rent, a suit for recovery of movable property or for compensation for wrong to movable property and suit for damages caused by cattle trespass. In all these cases the subject matter of the suit could not be more than Rs. 100. There is no further power confided even in the Nyaya Panchayat. Gram Panchayat as such has no power of deciding competing titles pertaining to immovable properties. The action of the Gram Panchayat in this caste in entertaining the application of the opponent Kashibai complaining about the trespass committed by the petitioner and claiming the title in plot No. 24 to herself is wholly without jurisdiction. The consequent order passed by them also is without jurisdiction.

6. The petition is therefore allowed and the order dated 24-7-1958 passed by the Gram Panchayat is hereby quashed.

7. The petitioner will be entitled to her costs of this petition from the other side Counsel's fee shall be taxed at Rs. 25.

Krishnan J.

8. I agree.