
(1987) 04 GAU CK 0001
In the Gauhati High Court
Case No : Civil Revision No. 192/86

Chidananda Bhuyan

APPELLANT

Vs

State of Assam & Ors.

RESPONDENT

Date of Decision : 25-04-1987

Acts Referred:

Assam Administrative Tribunal Act, 1977 — Section 4, 4
Civil Procedure Code, 1908 — Section 9
Civil Procedure Code, 1908 (CPC) — Section 9

Citation : (1988) 2 GLR 64

Hon'ble Judges : Manisana, J

Bench : Single Bench

Advocate : T.S.Deka, P.S.Deka, N.S.Deka, Advocates appearing for Parties

Judgement

1. This revision petition arises from the order dated 29.5.82 passed by the learned Munsiff (II) Nalbari in Money suit No. 47 of 1982.

2. The plaintiff/petitioner instituted the suit for recovery of a sum of Rs. 4,793.60. Rs. 2,000/was compensation for the loss suffered as alleged in paragraph 8 of the plaint. Rs. 2,553.60 was alleged arrears of pay and Rs, 240/was arrear allowances as alleged in paragraphs 10 and 11 of the plaint. The defendant/opposite parties had filed their written statement contesting the suit. The learned Munsiff by an order dated 29.5.86 dismissed the suit by holding that the suit was not triable by the Civil Court.

3. Section 9 of the Code of Civil Procedure runs :

"The Courts shall (subject to the provisions here in contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred." (emphasis added)

4. Under section 4 of the Assam Administrative Tribunal Act, for short "the Act", the Tribunal has jurisdiction to adjudicate dispute in respect of certain class of civil servants of the State.

5. Civil Courts are the Courts of general jurisdiction. Merely because the Act provides a remedy before the Tribunal having limited jurisdiction, the jurisdiction of the Civil Court may not be barred. Therefore, it is to be examined whether the jurisdiction of the Civil Courts has been expressly or impliedly excluded if the subject matter of dispute falls within the jurisdiction of the Tribunal.

6. In order to determine whether the jurisdiction of the Civil Courts is excluded the pleading of the plaintiff and if required that of the defendants are to be examined. The evidence of the parties may also be required if there are disputed facts, to ascertain whether the dispute to be adjudicated falls within the jurisdiction of the Tribunal. If it is found that the dispute is within the jurisdiction of the Tribunal, then it is to be further examined whether the jurisdiction of the Civil Court has been excluded expressly or by implication.

7. In the present case, the learned Munsiff has not examined the pleading of the plaintiff in the light of the discussions above. In this view of the matter, the order passed by the learned Munsiff cannot be allowed to stand.

8. I have perused the pleadings of the parties. While deciding the question of jurisdiction, evidence may or may not be required as there are some disputed as well as admitted facts. In this view of the matter, if the matter is remitted to the trial Court for disposal of the suit afresh on the preliminary point of jurisdiction, it will meet the ends of the justice.

9. For the foregoing reasons, the impugned order dated 29. 5. 86 in Money Suit No. 47 of 1982 passed by the learned Munsiff (II), Nalbari is set aside and the case is sent back to the learned Munsiff (II) Nalbari for trial of the issue afresh in the light of the above observation. The learned Munsiff shall dispose of the matter as expeditiously as possible. The records of the Court below shall be sent immediately. No costs.