
(1929) 06 AHC CK 0040
In the Allahabad High Court

Collector of Ballia

APPELLANT

Vs

Liladhar Bhagat

RESPONDENT

Date of Decision : 24-06-1929

Acts Referred:

Citation : (1929) 06 AHC CK 0040

Final Decision : Dismissed

Judgement

1. A preliminary objection is taken to the hearing of this revision, namely, that no revision lies inasmuch as the District Judge has at best only committed an error of law and has not acted without jurisdiction or committed any irregularity or illegality in the exercise of his jurisdiction. The suit was brought to recover a sum of money from certain minors, whose estate was under the Court of Wards of which the Collector was the manager, on a sirkhat executed by the deceased father of the defendants who also in his time had been a ward of the Court. The Collector was not impleaded as a party to the suit. The imperative provisions of Section 55, Court of Wards Act, were not complied with.

No ward shall sue or be sued nor shall any proceedings be taken in the civil Court otherwise than by and in the name of the Collector in charge of his property or such other person as the Court of Wards may appoint in this behalf.

2. It was obvious that in the absence of the Collector the suit was wholly defective and improperly constituted and could not have been decreed. Both the Courts below have decreed it.

3. We think we have jurisdiction u/s 115, Civil P.C., to interfere in this case. The indispensable party in whose absence the suit could not have been entertained was not impleaded and the decree against the minors would be a nullity. The Court below has acted illegally in the exercise of its jurisdiction in entertaining and decreeing the suit contrary to the imperative provisions of Section 55. At the least there has been a material irregularity in the exercise of jurisdiction because the person who was an indispensable party was never brought on the record. We

refer to the recent case decided by their Lordships of the Privy Council *Umad Mal v. Chand Mal* AIR 1926 P.C. 142 where the omission to implead Mt. Fatima the necessary party was considered to be a material irregularity.

4. The other points raised in this revision are covered by our judgment in *Ram Ratan Vs. Ram Lal Singh and Another*, We accordingly allow this revision and setting aside the decree of the Court below dismiss the suit with costs in all Courts.