
(1955) 10 RAJ CK 0003
In the Rajasthan High Court
Case No : Civil Revision No. 191 of 1953

Devichand

APPELLANT

Vs

Rikhab Chand and Another

RESPONDENT

Date of Decision : 20-10-1955

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 24

Citation : AIR 1957 Raj 255

Hon'ble Judges : K.N. Wanchoo, C.J;D.S. Dave, J

Bench : Division Bench

Advocate : Hastimal, for the Appellant;

Final Decision : Dismissed

Judgement

Wanchoo, C. J.

1. This is a revision by Devichand against the order of the Civil Judge, Pali, and arises in the following circumstances :

The applicant is defendant in a suit pending in the court of Civil Judge, Pali, since 1954. The suit relates to Tahsil Bali. On the 1st March 1955, jurisdiction over Tahsil Ball in cases triable by a Civil Judge was transferred from the court of the Civil Judge, Pali, to the court of the Senior Civil Judge, Sirohi. Consequently, the applicant made an application to the Civil judge, Pali, that he no longer had jurisdiction to decide the suit, and that only the Senior Civil Judge Sirohi had such jurisdiction.

This contention was based on the Civil Judge, Pali, losing jurisdiction even over pending cases when the work relating to Bali Tahsil was transferred by a notification issued by the Government to the court of Senior Civil Judge, Sirohi. The application was dismissed by the Civil Judge, and he has relied on the order of this Court dated the 23rd of April, 1955.

2. We do not think it necessary to decide in this case whether after the

notification of the 1st of March, 1955, the Civil Judge, Pali, lost jurisdiction even over pending cases in his court relating to Bali Tahsil as there is an order of this Court, which, in our opinion, concludes the matter. It has been urged by learned counsel that the order, on which the learned Civil Judge has relied, is not a judicial order of transfer, but an administrative order, and therefore is not valid. We are of opinion that there is no substance in this submission of learned counsel.

3. u/s 24 of the Code of Civil Procedure, it is open to the High Court either on the application of any of the parties or of its own motion to transfer any suit, appeal or other proceeding from one court to another. Where the High Court transfers a proceeding on its own motion, it is not necessary for the High Court to give notice to parties. Transfers take place in two ways. Firstly, a transfer may be ordered on the application of a party. In such a case, notice is issued, parties are heard, and an order is passed. Secondly, a transfer may be ordered by the District Judge, or the High Court on its own motion. In such a case no notice to any party is required, and the transfer is generally for administrative reasons. But even though the transfer may be for administrative reasons, the order of transfer is still an order u/s 24, and therefore a judicial order.

We have looked into the file of this Court relating to the order which was issued on the 23rd of April, 1951, and on which the Civil Judge has relied. The order was in the form of a letter from the Registrar of this Court to the District Judge, and was to this effect-

"I am directed to say that the pending cases may remain at Pali, and be dealt with by the Civil Judge, Pali."

We find that there was a report from the District Judge, Pali, in connection with pending cases, and what should be done about them in view of the notification of Government, dated the 1st of March, 1955. The letter of the District Judge was placed before the two of us, and we ordered that suits etc., pending before the Civil Judge, Pali, should remain with him and be disposed of by him.

This order, in our opinion, amounted to a transfer by the High Court, of its own motion, of such cases to the court of the Civil Judge, Pali, even assuming that the result of the notification of Government, dated 1st of March, 1955, was that the pending cases of Bali Tahsil stood transferred to the Senior Civil Judge, Sirohi. The form, in which the order was conveyed to the Civil Judge, namely by a letter, is, in our opinion, immaterial.

The substance of the matter is that the question whether pending cases should be disposed of by the Civil Judge, Pali, or by the Senior Civil Judge, Sirohi, in view of Government notification, dated the 1st of March, 1955, was considered by a Bench of this Court, of which both of us were members, and we passed an order for administrative reasons that the cases would remain with the Civil Judge, Pali. That order is, in our opinion, an order u/s 24 of the CPC under which it can be properly passed.

4. There is, therefore, no force in this application, and it is hereby dismissed.