
(1924) 06 AHC CK 0055
In the Allahabad High Court

Firm Hira Lal-Umrao Singh	Vs	APPELLANT
Firm Sri Ram-Brij Mohan Lal		RESPONDENT

Date of Decision : 23-06-1924

Acts Referred:

Citation : AIR 1925 All 102

Hon'ble Judges : Boys, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Boys, J.—The plaintiff sued the defendant on a balance of account on a series of transactions of the sale and purchase of Khatis is alleged to have been effected by the defendant through the plaintiff. The learned Judge of the Small Cause Court dismissed the suit holding that the transactions were wagering transactions. In civil revision here it has been urged that though the transactions were wagering transactions the plaintiff was an agent for the defendant in carrying out those transactions and that, therefore, though the wagering transactions in themselves may be void, the collateral liabilities as between the plaintiff as agent and the defendant as principal are unaffected and Mr. Bajpai for the applicant relief upon Jag at Narain v. Sri Krishna Das (1910) 33 All. 219. It is obvious that before the applicability of that case has to be considered it must be clear that the plaintiff was not acting for himself as a principal and with the defendant as the other principal but was acting merely as agent between the defendant as one principal, and the plaintiff as agent and one or more other principals, third parties. The learned Judge of the Small Cause Court has on this point remarked:

It is urged lastly that the plaintiffs were acting as agents of the defendant but the plaintiff has not proved a single instance in which he acted bona fide as such.

2. The phraseology was not at first sight very clear but I think the meaning of the learned Judge is that the plaintiff had failed to establish a single instance of

dealings with any other party than the defendant in regard to the transactions, the subject-matter of the suit and that therefore it found that the plaintiff must himself have been a principal and not an agent. That this is the meaning of the learned Judge and also a sound view of the case is, I think, clear from the evidence of the plaintiff himself. He was definitely questioned and definitely failed to trace out one single instance or to give a clue to one single transaction in which a third party figured and moreover he admitted that it was impossible to do so. This speaks for itself and justifies the lower Court's finding that the plaintiff was in fact not an agent. It is clear therefore that ILR 33 All 219, can have no application. The application is dismissed.