

(1949) 01 CAL CK 0036
In the Calcutta High Court
Case No : Civil Revision Case No. 393 of 1948

Jagabandhu Nandi

APPELLANT

Vs

Sivaprosad Bhatta-Charjya and Others

RESPONDENT

Date of Decision : 19-01-1949

Acts Referred:

Citation : (1949) 01 CAL CK 0036

Judgement

Chakravartti, J.—This Rule is directed against an order by which the officer, who was the First Munsif at Sealdah on the 21st January. 1948. transferred a certain suit to the Second Munsif's Court in anticipation of the District Judge's sanction in accordance with a certain General Letter. It appears that the suit concerns some property situated at Titagarh. Under the distribution of business as between the different Munsifs of Sealdah, the area concerned has been allotted to the Second Munsif. The suit, however, was brought in the Court of the First Munsif and the officer who was at that time presiding over the Court had pecuniary jurisdiction over the subject-matter of the suit, That officer has been transferred and has been succeeded by another officer who. I am told, has no pecuniary jurisdiction of the requisite limit. An objection was taken before him that he was not competent to proceed with the suit and the learned Munsif gave effect to that objection. In doing so, he held that it was the present Second Munsif who had both pecuniary and territorial jurisdiction and accordingly the case ought properly to be tried by him. In that view, he himself made an order of transfer to the Second Munsif in anticipation of the learned District Judge's order as I have stated, and held that no question of returning the plaint arose. What is complained of by the Petitioner is that at the time when the suit was brought, the officer who was presiding over the First Munsifs Court had no territorial jurisdiction over the subject-matter of the suit, although he had pecuniary jurisdiction. It is therefore contended that the case is one where the suit was filed in a Court having no territorial jurisdiction and consequently the suit ought not to have been merely transferred but the plaint ought to have been returned.

2. This argument, in my view, is based on a misconception of the true effect of

the distribution of business as between the different Munsifs of a station by an order of the District Judge. It is not necessary for me to deal with this question by reference to the relevant statute and I am content to refer to the decision reported in the case of *Nasrab Khan v. Deb Nath Nali* 75 C.L.J. 255 (1941) where the matter is dealt with at page 261 of the report. There, it has been held by Mukherjea and Biswas. JJ., that the source of the jurisdiction of a Munsif was the order made by the local Government under sec. 13 (I) of the Bengal, Agra and Assam Civil Courts Act and that an order made by the District Judge of the station under sec. 13 (2) merely distributes, as a matter of convenience, and with reference to certain local areas, the civil business amongst two or more Courts each of which has jurisdiction over the whole area. It is pointed out further that in such cases neither of the Courts loses jurisdiction which it has under the Government order made under sec. 13 (I) of the Act.

3. It follows therefore quite plainly that although under the distribution of business made by the District Judge of the station the local area concerned in the present case did not stand allotted to the First Munsif. yet there was no Fundamental lack of jurisdiction and when the suit was filed in the Court of that Munsif, it was not filed in a Court without jurisdiction. In my view. therefore, the learned Munsif was perfectly right in holding that no question of returning the plaint arose.

4. It was in the second place contended by Mr. Basu who appeared on behalf of the Petitioner, that the order of transfer ought not to have been made by the learned Munsif himself but should have been left to be made by the learned District Judge. I do not see that there is any forte in that contention. It is clear that there is a practice under which an order of this kind is made in the first instance by the Court concerned in anticipation of the sanction of the District Judge and the order becomes effective only when, to the direction given by the Court concerned, the sanction of the District Judge is superadded. Really speaking, the order is made by the District Judge himself. I do not see how the Petitioner is in the slightest degree prejudiced by reason of the order having been made by the learned it is an irregularity at all which, in my opision because of the alleged irregularity, if it is an irregularity at all, which, in my opinion, it is not. For the reasons given above, this Rule is discharged with costs--the hearing-fee is assessed at one gold mohur.