
(2010) 09 CHH CK 0033
In the Chhattisgarh High Court
Case No : Civil Revision No. 10 of 2004

Krishiupaj Mandi Samithi

APPELLANT

Vs

Khandelwal Rice Mill and Another

RESPONDENT

Date of Decision : 27-09-2010

Acts Referred:

Chhattisgarh Krishi Upaj Mandi Adhiniyam, 1972 — Section 19(4), 34, 34(4), 66, 67

Citation : (2011) 1 CGLJ 323

Hon'ble Judges : T.P. Sharma, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

T.P. Sharma, J.—Since both the civil revisions No. 10/2004 & 12/2004 filed on behalf of the Petitioner against the common order dated 3/1/2004 passed by 8th Additional District Judge, Durg in Civil Suit Nos. 6-B/2003 & 5-B/2003 are being disposed of by this common order.

2. By this civil revisions Petitioner has challenged the legality and propriety of the order dated 3/1/2004 passed by 8th Additional District Judge, Durg in Civil Suit Nos. 6-B/2003 & 5-B/2003 on common question of law involved in suit relating to maintainability of the suit against the Petitioner i.e. Krishi Upaj Mandi Samithi, in terms of Sections 66 & 67 of the Chhattisgarh Krishi Upaj Mandi Adhiniyam, 1972 (in short "Adhiniyam 1972").

3. As per the case of the parties Petitioner had issued different notices to Respondent No. 1 which he replied thereafter after serving the notice u/s 67 of the Adhiniyam 1972, Respondent No. 1 has filed civil suit against the Petitioner for declaration of recovery null and void and for return of money so recovered. Present Petitioner has contested the case and objected that in the light of Sections 19 (4), 34 (4) & 66 & 67 of the Adhiniyam 1972, suit filed on behalf of the Respondent No. 1 is not maintainable. Preliminary issues No. 3, 5 & 6 were framed and after providing an opportunity of hearing to the parties learned Court

below has rejected the objections of the Petitioner.

4. Learned Counsel for the parties are heard.

5. Order impugned and copy of plaint filed on behalf of the Petitioner perused.

6. Learned Counsel for the Petitioner vehemently argued that Chhattisgarh Krishi Upaj Mandi Adhiniyam, 1972 is special Act and complete procedure has been prescribed in the said Act therefore civil suit is barred in terms of Section 66 of the Adhiniyam 1972.

7. Learned Counsel for the Petitioner further argued that in accordance with Section 19 (4) of the Adhiniyam 1972, five times market fees is recoverable. Order passed by Chairman, Market Committee and the Director is appealable u/s 34 of the Adhiniyam 1972 and the order passed in appeal would be final and shall not be called in question in any Court of law in terms of Section 34(4) of the Adhiniyam 1972.

8. Learned Counsel for the Petitioner also argued that civil suit is barred in terms of Section 66 of the Adhiniyam 1972 but in certain circumstances suit may be filed after serving the notice as required u/s 67 of the Adhiniyam 1972 within 6 months from the date of the accrual of the alleged cause of action.

9. Learned Counsel for the Petitioner also argued that present Respondent No. 1 has not filed any appeal and has directly challenged the proceeding by filing civil suit same is not maintainable u/s 66 of the Adhiniyam 1972 and also barred by limitation in terms of Section 67 of the Adhiniyam 1972.

10. On the other hand, learned Counsel for the Respondent No. 1 vehemently opposed the civil revisions & objections and submits that in terms of Section 67 Adhiniyam 1972 Plaintiff is entitled to file civil suit after serving the notice. He has served the notice to Petitioner and has filed the suit within limitation therefore suit is maintainable before the civil Court and Court below has rightly rejected the petition filed on behalf of the Petitioner.

11. The provisions of Section 67 of the Adhiniyam 1972 is clear and unambiguous every civil suit is not barred u/s 66 of the Adhiniyam 1972 and action of the authorities may be challenged by the parties before the Civil Court after serving the notice and filing the suit within limitation in accordance with Section 67 of the Adhiniyam 1972. After considering the contention of the parties learned 8th Additional District Judge, Durg has rejected the objection of the Petitioner. While rejecting the objection learned 8th Additional District Judge, Durg has neither exceeded its jurisdiction vested on it nor failed to jurisdiction vested on it. Court below has not committed any illegality requiring any interference in exercise of revisional jurisdiction and suit filed on behalf of the Respondent No. 1 is maintainable before the civil Court. Consequently, civil revisions No. 10/2004 & 12/2004 are liable to be dismissed and is hereby dismissed.

12. No order as to costs.