

(1935) 07 PAT CK 0008
In the Patna High Court
Case No : Appeal No. 214 of 1934

Kunja Lal Sahu

APPELLANT

Vs

Firm Sagar Mal-Puran Mal

RESPONDENT

Date of Decision : 17-07-1935

Acts Referred:

Citation : (1935) 07 PAT CK 0008

Final Decision : Dismissed

Judgement

Mohammad Noor, J.—This appeal arises out of an execution proceeding and is by the judgment-debtor whose objections to execution have been rejected by both the Courts below. There were two objections to the execution. One was that the property to be sold was a raiyati holding and was not liable to be sold under S. 47, Chota Nagpur Tenancy Act. The second was that the property being situated at Gumla could not be attached and sold by the Munsif of Ranchi. Both these objections have been overruled.

2. Regarding the first objection it is clear that the appellant was not; a raiyat. He was not recorded as such in the Record-of-Rights. It seems that he held no agricultural land in the village--in fact no land--except the house in question and a piece of land attached to it. There is nothing to show that he was a raiyat within the definition of the term in the Chota Nagpur Tenancy Act. We have been referred to the Settlement Report of Hazaribagh, which shows that the raiyats whose lands are sold in execution of decrees and who are allowed to continue residing in the village are by custom entitled to hold their homestead lands without payment of rent. This is so and it has been recorded in the Record-of-Rights that the appellant is not liable to be ejected by the landlord and that he is not liable to pay any rent. This does not give him the status of a raiyat. It is also not clear whether the appellant was ever a raiyat of the village.

3. The next objection was about the power of the Munsif of Ranchi to sell this property. The position has not been very clearly stated by the learned Judicial Commissioner. He has said that the two Munsifs, namely, the one at Gumla and

the other at Ranchi, have got concurrent jurisdictions in Gumla. It is correct only to this extent that Gumla is within the territorial limit of both the Courts in respect of suits of different value. But they have not concurrent jurisdiction in the sense that a suit of same value in respect of Gumla properties can be instituted in either Court. The position is this. There is a Munsif at Gumla, who has power to try suits up to the value of Rs. 1,000, arising within the local limits of Gumla Subdivision. There is a Munsif at Ranchi (the Court which has passed the decree under execution and is executing it) who has power to try suits up to the value of Rs. 2,000 arising within the District of Ranchi but suits not exceeding Rs. 1,000 in value arising outside the Sudder Subdivision cannot be instituted before him. Therefore in respect of suite up to Rs. 1,000 the jurisdictions of the two Munsifs are different. Such suits arising in one area cannot be tried by the Munsif of another area. Similarly, suits of the value of above Rs. 1,000 and up to Rs. 2,000 arising within Gumla can be instituted before the Munsif of Ranchi only, and not before the Munsif of Gumla. It is true that the execution is of a decree which was passed in a suit of less than Rs. 1,000 in value, but the jurisdiction to attach and sell property depends upon the fact whether the Court has got jurisdiction over the property, and the test will be whether the suit in respect of that property can be entertained, by that Court. There is no doubt that the jurisdiction of the Munsif of Ranchi extends over the whole district in respect of suits up to Rupees 2,000 in value. Suits up to Rs. 1,000 in value cannot be instituted before him under the provisions of the CPC which provides that a suit must be instituted before a Court of the lowest grade. Therefore the property situated at Gumla is within the jurisdiction of the Munsif of Ranchi, though suits of smaller value that is of the value up to Rs. 1,000 arising within Gumla cannot be instituted before him on account of there being a Munsif at Gumla itself. The property being situated within the local limits of the Munsif of Ranchi, he had, in my opinion, full power to attach and sell it.

4. There does not seem to be any merit in the appeal. I would dismiss it with costs.

Saunders, J.

5. I agree.