
(1961) 01 AHC CK 0008
In the Allahabad High Court
Case No : Civil Revision No. 1517 of 1955

Madho Prasad

APPELLANT

Vs

The Union of India (UOI)

RESPONDENT

Date of Decision : 20-01-1961

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 80
Railways Act, 1890 — Section 77

Citation : AIR 1961 All 433

Hon'ble Judges : J.D. Sharma, J

Bench : Single Bench

Advocate : H.N. Seth, for the Appellant; J. Swarup, for the Respondent

Final Decision : Allowed

Judgement

J.D. Sharma, J.—The short question arising in this revision is whether a combined notice u/s 77, Railways Act and Section 80, C. P. C., is valid.

2. The applicant brought the suit for damages on account of short delivery. The suit was contested on the ground inter alia that a combined notice u/s 77, Railways Act, and Section 80, C. P. C., was invalid. The contention was upheld by the court below and the suit was dismissed without going into the merits.

3. The object of a notice u/s 77, Railways Act, is to inform the railway administration of the nature of loss etc. claimed by a person. This notice must be given within six months from the date of delivery. The object of a notice u/s 80, C. P. C., is almost the same but in addition to informing the railway administration about the nature of the claim a person giving such a notice has also to notify his intention of filing a suit. But in essence and substance the subject-matter of the two notices is the same.

Under Section 80, C. P. C., as amended the notice is to be given to the General Manager to whom a notice u/s 77, Railways Act, is also to be given. A combined notice u/s 77, Railways Act, and Section 80, C. P. C., will therefore not be invalid.

A similar view was taken in AIR 1952 22 (Nagpur) Union of India v. Laxmi Narain AIR 1954 Pat 424 and Dharamsi Liladhar Vora Vs. Union of India (UOI), .

4. The revision is therefore allowed and the order of the court below dated the 30th August 1955 is set aside and the suit is sent back for disposal according to law. Costs shall abide the final result.