

(1986) 01 AHC CK 0052

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 366 of 1977

Mahabir Prasad alias Manni Lal

APPELLANT

Vs

Munsif Haveli and Others

RESPONDENT

Date of Decision : 30-01-1986

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Panchayat Raj Act, 1947 — Section 64, 64(1), 66

Citation : (1986) 01 AHC CK 0052

Hon'ble Judges : H.N. Seth, Acting C.J.;N.N. Mithal, J

Bench : Division Bench

Advocate : S.N. Gupta, for the Appellant;

Final Decision : Allowed

Judgement

H.N. Seth, A.C.J.

1. Petitioner Mahabir Prasad is aggrieved by the order dated 25.08.1975 passed by Nyaya Panchayat, Nala, Tahsil Bilhaur, district Kanpur, decreeing the Plaintiff's (Respondent No. 3's) suit for the recovery of a sum of Rs. 512.53 from him. He is also aggrieved by the judgment dated 27.09.1976 passed by the Munsif Hawaii, Kanpur affirming the aforesaid decision of the Nyaya Panchayat.

2. Briefly stated, the facts giving rise to the present writ petition are that Respondent No. 2 filed a suit before the Nyaya Panchayat, Nala, against the Petitioner alleging that he had taken certain land from the Petitioner on Batai in the year 1380 Fasli. The Petitioner did not give to him the grain valued at Rs. 464-00 to which he had become entitled under the contract of batai. He, therefore, claimed a decree for a sum of Rs. 464/- together with Rs. 36/- as interest due thereon, total amount Rs. 500/-. The Nyaya Panchayat believed the case of the Plaintiff and decreed the suit. Aggrieved the Petitioner went up in revision before the Munsif making allegations attributing mala-fides to the Nyaya Panchayat. He also claimed that the procedure adopted by the Nyaya Panchayat

in deciding the suit, without affording him an opportunity to cross examine the witnesses, was contrary to law and rendered the decree invalid. The learned Munsif did not believe the Petitioner's case regarding malafides of Panches of the Nyaya Panchayat. He also observed that there was nothing on the record to show that the Petitioner had, at any stage, made any application for cross-examining the witnesses of the Plaintiff. In the result, he dismissed the revision application. Aggrieved the Petitioner has approached this Court for relief Under Article 226 of the Constitution.

3. In the instant case, it is not disputed that the Plaintiff Respondent had, before the Nyaya Panchayat, claimed a decree for a sum of Rs. 500/- which according to him was due to him in respect of " batai contract " where under he was to till the land of the Petitioner and to share half of the usufruct thereof.

4. Learned Counsel for the Petitioner urged that in this case as the Nyaya Panchayat was not competent to try the suit, the decree passed by the Nyaya Panchayat was therefore, a nullity.

5. Section 64 of the Panchayat Raj Act runs thus:

64. Extent of jurisdiction in civil cases (1) Subject to the provisions of Section 66 a Nyaya Panchayat may take cognizance of any civil case of the following description if its value does not exceed one hundred rupees-

(a) a civil case for money due on contract other than a contract in respect of Immovable property;

(b) a civil case for the recovery of moveable property or for the value thereof;

(c) a civil case for compensation for wrongfully taking or injuring a moveable property; and

(d) a civil case for damages caused by cattle trespass.

(2) The State Govt, may, by notification in the official Gazette, direct that the jurisdiction of any Nyaya Panchayat shall extend to all such civil cases of the value not exceeding five hundred rupees.

6. It is not disputed before us that "the requisite notification extending the jurisdiction of the Nyaya Panchayat to try suits up to the value of Rs. 500/- has already been issued. However, under this Section, the Nyaya Panchayat can take cognizance of a civil suit only if it falls under one of the categories enumerated in Clauses (a) to (d) thereof. Obviously Clauses (b) to (d) are not applicable in this case. So far as Clause (a) is concerned, the Nyaya Panchayat can take cognizance of suit for money due on a contract other than a contract in respect of Immovable property. This clearly means that if any money is claimed on the basis of a contract relating to immovable property, the Nyaya Panchayat will have no jurisdiction to entertain and try the same. In the instant case Plaintiffs own case was that the money was due to him under a Batai contract where under the Plaintiff was to till the land of the Petitioner and to share its usufruct. On the face

of it the contract under which the money was claimed by the Plaintiff was in respect of an immovable property. The claim of the Plaintiff thus fell outside the purview of Clause (a) of Section 64(1) of the Panchayat Raj Act, and the Nyaya Panchayat had no jurisdiction to entertain the Suit,

7. In view of the aforesaid discussion, we are clearly of opinion that the decree passed by the Nyaya Panchayat was without jurisdiction.

8. In the result, the petition succeeds and is allowed. The decree of the Nyaya Panchayat dated 25th of August, 1975 as affirmed by the Munsif in revision vide his judgment dated. 27th September, 1976 is quashed. As no one appeared to oppose this petition, the parties are directed to bear their own costs.