
(1918) 07 AHC CK 0002
In the Allahabad High Court

Mahant Darshan Das

APPELLANT

Vs

The Collector of Meerut and Another

RESPONDENT

Date of Decision : 04-07-1918

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 92

Citation : AIR 1918 All 218 : 47 Ind. Cas. 850

Hon'ble Judges : Tudball, J;Abdur Raoof, J

Bench : Division Bench

Judgement

1. The facts of this case may be briefly stated. One Puran Atal was the manager of a certain gaddi. It is an admitted fact that the gaddi in question is a trust for religious purposes. Puran Atal was removed from his position as trustee by the order of the District Judge of Meerut on the 7th of May 1909. The present appellant Darshan Das was appointed in his place and certain directions were given to him, among which was one that he should file accounts annually in the month of January. In 1913 two suits were brought against Darshan Das u/s 92 of the CPC both of which failed. In 1916 Puran Atal filed an application before the District Judge calling attention to the fact that Darchan Das had never filed any accounts and making certain allegations against him. The District. Judge started an enquiry, in the course of which the Collector of Meerut applied through the Government Pleader asking the Court to make some arrangements for the better management of the gaddi. Notice was issued to Darshan Das and. efforts were made to bring him into Court. FOR reasons with which we are pot now concerned, he did not appear and the District Judge made an ex parte enquiry and finally passed the order of the 9th of February from which the present appeal has been preferred. The order was as follows:-- "Mahant Darshan Das is prohibited from having any further dealings with the, property of the gaddi. Proclamation will be made in the villages belonging to the gaddi that Darshan Das is prohibited from receiving rents or revenue acting in any way on behalf of the gaddi for the future" Certain gentlemen appeared and they were also appointed as a sort of committee to look after the estate, and the Judge

suspended Darshan Das from his post pending the filing of a regular suit u/s 92 of the Code of Civil Procedure. We also note that more than five months have passed and no attempt whatsoever has been made to file any such suit or to obtain the sanction which is necessary u/s 92 for the filing thereof. A preliminary objection is taken that no appeal is allowed by the Code from the order which was passed. As far as we are able to judge the order has been passed without any jurisdiction whatsoever. The preliminary objection, therefore, has force, namely, that no appeal lies. At the same time we are asked to treat this as an application in revision and we think that in the circumstances of the case we ought to do so: If Puran Atal had shown any activity or energy in obtaining sanction or in bringing a suit u/s 92 we might have been prepared to reject this appeal on the ground that no appeal lies and to have refused to treat this as an application in revision, because in all probability the matter would come before the Court at a very early date in a regular suit, but it is to the interest of Puran Atal to delay in bringing such a suit and already a delay of some five months has occurred. We, therefore, think it best that we should take up this matter in revision. As we have pointed out, the order is clearly without jurisdiction. There is no suit u/s 92 pending before the District Judge. The Code gives him no powers to interfere in this matter unless and until a regular suit is filed in his Court, when it will be open to him to exercise all the powers as to the appointment of a Receiver, etc, the Code gives him -in order to protect the property. We fail to see that he has any powers to interfere, as he has done in this case; and to suspend a trustee from his post on the application of a private person who has called attention to the fact that a breach of trust appears to have been committed. The Code lays down a regular procedure for suits on such facts as have been brought to the notice of the Court and until the Court is moved in that way, the Judge certainly has no power of supervision to interfere and to pass such an order. We, therefore, set aside in revision the order passed by the Court below suspending Mahant Darshan Das and prohibiting him from having anything to do with the estate. The Court below has also passed an order directing that the fees of the Government Pleader and the Collector's costs should be met from the gaddi funds. We can see no justification for such an order. That order will also be set aside. The Collector will have to bear his own costs. We think also that in the circumstances of this case, the other two parties to this matter should also bear their own costs throughout the litigation.