(1944) 08 AHC CK 0017

In the Allahabad High Court

Radha Krishna and Another APPELLANT

Vs

Reserve Bank of India RESPONDENT

Date of Decision : 02-08-1944

Acts Referred:

Citation : AIR 1945 All 29

Hon'ble Judges : Dar, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Dar, J.—This is an appeal against the judgment and decree, dated 13th October 1941, of the Additional Civil Judge of Jaunpur by which he affirmed a judgment and decree, dated 3rd September 1940, of the Additional Munsif of Jaunpur in a suit for recovery of money. The plaintiffs are the proprietors of the Firm Radha Krishna Gopal Lal which carries on business in the City of Jaunpur. On 24th December 1938, they sent five currency notes of the value of Rs. 100 each to the Currency Officer of the Reserve Bank of India for being cashed and their amount to be remitted to them. These five notes had been cut into two halves and joined together by pasting a paper at the back. The notes had been cut vertically and the dividing line of one note passes through the last digit of one of the numbers of the note, with the result that a larger portion of the last digit goes over to one half of the note and only a small portion of the last digit remains in the other half. The two halves are of unequal size; the larger half contains at the top the number of the note intact and at the bottom it contains the larger portion of the last digit of the number of the note. The lesser half contains the number of the note excepting a fraction of the last digit. This is the picture of the currency note bearing No. 862562, which has been discussed in the judgments of the Courts below. But other currency notes also are substantially in the same condition. As we have said above, the notes were sent joined by pasting a paper at the back and the joining was inartistically done and leaves an impression that the last digit from one half of the note has been completely scored off. But if disregarding the joining the two halves were to be placed side by side, it would show that the two halves were really parts of the same note and bear an identical number.

2. The Currency Officer relying upon the appearance of the note as it presented itself at first sight came to the conclusion that one half of the note could not be identified with the other half and as one half of the note contained the number of the note intact and the other half of the note did not contain the number of the note intact, he was bound in law only to accept one half of the note which bore the number intact and to disregard the other half of the note in which the last digit of the number had been cut, And in this view of the matter he felt himself compelled to allow to the plaintiffs the amount due on half note only. The plaintiffs did not accept the position taken up by the Currency Officer that the plaintiff had submitted a claim with regard to a half note or were entitled to receive half the value of the note, and they declined to accept half the value of the note which was offered to them by the Currency Officer.

3. Some further controversy ensued between the plaintiffs and the Reserve Bank of India with regard to the claim which could not be adjusted amicably and finally the plaintiffs raised an action in the Court of the Munsif of Jaunpur out of which this appeal has arisen for recovery of a sum of Rs. 500, the value of the currency notes, together with Rs. 37-8-0 as interest due on the said sum against the Reserve Bank of India. The Munsif of Jaunpur dismissed the claim as barred by Section 28, Reserve Bank of India Act (2 of 1934). He expressed the view that the notes sent by the plaintiffs were mutilated notes within the meaning of Rule 2 (e), Reserve Bank of India (Note Refund) Rules, 1935, and as such Section 28, Reserve Bank of India Act (2 of 1934) applied to the case and the action of the plaintiffs was not maintainable. This view of the Munsif was affirmed in appeal by the Additional Civil Judge.

4. We have now a second appeal before us by the plaintiffs in which two questions arise for our consideration. One is whether the currency notes mentioned above can be regarded as mutilated notes within the meaning of Rule 2(e), Reserve Bank of India (Note Refund) Rules, 1935. If they can be regarded as mutilated notes, then undoubtedly the view of the Courts below is correct and the claim will have to be dismissed. The second question is that if the currency notes cannot be regarded as mutilated notes, then can they be regarded as half notes within the meaning of Rule 2(e) or the above Rules? If the notes in dispute can be regarded as half notes, then the view taken by the currency officer will be justified and in that case also the claim will have to be dismissed. A mutilated note is defined in the definition clause of the above Rules, which is Rule 2(e) as follows:

Mutilated note means a note of which a portion is missing:

Provided the portion presented is clearly more than a half note and that if the portion presented consists of parts of a note joined together, each part of such portion is identifiable as part of the same note.

5. The Courts below have taken the view that the proviso quoted above applied to the notes in dispute and as such the notes are mutilated notes. In our opinion, this is not a correct interpretation of the clause. The governing clause states that a mutilated note is one from which a portion is missing, and if there is a note from which no portion is missing the governing clause cannot apply and if the governing clause cannot apply the proviso also cannot apply. Before a note can be described as a mutilated note, it is an essential condition that a portion of that note should be missing and if that condition is not fulfilled the note cannot be regarded as a mutilated note. The view of the Courts below, therefore, for the rejection of the plaintiffs'' claim cannot be sustained.

6. We have now to examine the view of the currency officer that the claim of the plaintiffs for the refund of the amount was based on a half note. He proceeded upon the assumption that one half of the note from which the last digit has been cut in the circumstances mentioned above prevents the identification of the note and the two halves must be taken as two separate halves, one of which is identifiable and the other of which is not identifiable. If this view had been sound on facts, then the legal inference drawn by the currency officer was undoubtedly correct. But the difficulty in accepting this view is that the two halves are not separate halves, but parts of the same note and are identifiable as such. We have already stated in the opening portion of this judgment that if we were to disregard the pasting made by the plaintiffs at the back of the notes and were to put the two halves side by side, no doubt is left in one''s mind that the two halves are parts of the same note and are identifiable. The position then in brief is that if the two halves of one note are sent to a currency officer, each half bearing the number of the note and both halves are identifiable as one note, is there anything in law which entitles the currency officer to refuse to entertain such a claim? This leads us to the consideration of Section 28, Reserve Bank of India Act (2 of 1934), which is as follows:

Notwithstanding anything contained in any enactment or rule of law to the contrary, no person shall of right be entitled to recover from the Governor-General in Council or the bank the value of any lost, stolen, mutilated or imperfect currency note of the Government of India or bank note:

Provided that the bank may, with the previous sanction of the Governor-General in Council, prescribe the circumstances in and the conditions and limitations subject to which the value of such currency notes or bank notes may be refunded as of grace and the rules made under this proviso shall be laid on the table of both Houses of the Central Legislature.

7. This section only applies to a case where the claim is made on the basis of a lost, stolen, mutilated or imperfect currency note. We have already held above that the notes in question are not "mutilated" notes as that word is defined in the statute. An imperfect currency note has not been defined anywhere in the Rules of 1935, and it has not been contended before us that the notes in dispute could be regarded as imperfect notes. We are therefore of opinion that if the two

halves of a currency note are placed before a currency officer when both halves are identifiable as parts of one note, Section 28 does not apply to such a case, and the currency officer should allow such a claim. The whole question in such a case is question of fact whether the two halves are or are not identifiable as parts of one note. We are of course assuming that the note is not a mutilated note and is not open to any objection on any other legal ground. The claim of the plaintiffs therefore was wrongly rejected by the currency officer. We accordingly allow this appeal, set aside the decrees of both the Courts below and grant to the plaintiffs a decree for Rs. 500 against the defendant with costs in all the Courts. The claim for interest is not allowed because firstly there is no statutory provision for it and secondly this is not a fit case in which interest should be allowed.

