

(1953) 03 AHC CK 0014

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 103 of 1952

Raghu

APPELLANT

Vs

Panchaiti Adalat

RESPONDENT

Date of Decision : 04-03-1953

Acts Referred:

Uttar Pradesh Panchayat Raj Act, 1947 — Section 64

Citation : AIR 1953 All 528 : (1953) 23 AWR 305

Hon'ble Judges : Brij Mohan Lall, J

Bench : Single Bench

Advocate : Hriday Nath Seth, for the Appellant;

Final Decision : Dismissed

Judgement

Brij Mohan Lall, J.—This is an application under Article 220 of the Constitution in respect of a Panchayat Raj matter.

2. It appears that two buffaloes and four bullocks owned by one Shitla Prasad died in his village which is situate within the circle of Pancha-yati Adalat Barchauli in the district of Jaunpur. The skins of the said animals were taken away by the Chamars of the village under a village custom. Shitla Prasad brought a suit against them in the Panchayat court alleging that although the skins could, under the said custom, be taken away by the defendants, the custom required them to pay the price thereof. The defence was that the defendant had the right to take away the skins without making any payment. The Panchas enquired into the particulars of the custom and came to the conclusion that payment had to be made. They decreed the suit brought by Shitla Prasad. A revision was preferred by the defendants, but it was rejected by the learned City Munsif of Jaunpur. The defendants have now come up to this Court.

3. It is contended on their behalf by their learned counsel that the suit was not cognizable by the Panchayat court. Reference is made to Section 64 (b), Panchayat Raj Act (26 of 1947), which says that the jurisdiction of a Panchayati

Adalat shall extend to suits "for the recovery of movable property or for the value thereof". It is argued that the word "thereof" suggests that if the plaintiff can institute a suit for the recovery of a certain movable property, he can also maintain a suit for the price thereof, but if the circumstances are such that a suit for the recovery of the specific movable property cannot be brought, no suit for its price can be entertained by the Panchayati Adalat. It is pointed out that since the defendants' right to appropriate the skins is undisputed, and since no suit for the recovery of the skins could be brought by the plaintiff, he could not institute a suit for the price of the skins also in the Panchayati Adalat.

4. Having given my best consideration to this contention, I am of the opinion that Section 64 (b) does not admit of such a restricted interpretation. There is nothing in the language of the statute to lend support to the contention that if on account of any contract between the parties or by reason of custom or for any other reason a claim for recovery of specific movable property cannot be brought, the suit for its price is also excluded from the jurisdiction of the Panchayat court. Suppose A purchases some edible article from B on credit and promises to pay the price after a fortnight. Within this period he consumes the article. After the expiry of this period, "B" cannot possibly bring a suit for the return of the commodity itself because it exists no more. If the argument of the learned counsel for the applicant is correct he cannot sue for its price also. This could never have been the intention of law. As I read the relevant clause I interpret it to mean that the Panchayat Court can entertain a suit for possession of movable property and also for the price thereof. It is not necessary that the suit should be for the price of that movable property only in respect of which specific delivery could be ordered by the Panchayat Court.

5. In the circumstances, I am of the opinion that the suit was cognizable by the Panchayat court. There is no force in this petition. It is hereby rejected.