

(1937) 08 PAT CK 0031
In the Patna High Court

Ram Bilas Mal

APPELLANT

Vs

Raghunath Sahay

RESPONDENT

Date of Decision : 19-08-1937

Acts Referred:

Citation : 172 Ind. Cas. 30

Hon'ble Judges : Courtney-Terrell, C.J;Manohar Lall, J

Bench : Division Bench

Judgement

Courtney-Terrell, C.J.—This is an appeal from a decision of the District Judge of Gaya. The decree-holder is the appellant. He had obtained a money-decree against the respondent for a sum of Rs. 1,500 odd in the Court of Second Munsif of Gaya. He began execution proceedings in that Court. We are concerned only with one of the properties. The Munsif attached the property which happens to lie in the Aurangabad Sub-Division and not in the Sub-Division which has been assigned for administrative purposes to the Munsif of the Second Court of Gaya. After the attachment there was a sale proclamation to which there was no objection on the part of the respondent. After the sale proclamation, however, the respondent objected that the entire property which was in the Aurangabad Sub-Division was in the jurisdiction of the Munsif of Aurangabad and not in the jurisdiction of the second Munsif of Gaya who had passed the decree, and so the execution case before the second Munsif of Gaya in so far as it concerned this property was without jurisdiction. The Munsif of the second Court of Gaya allowed the objection to the sale but maintained the attachment over the property. The judgment-debtor then appealed to the District Judge against the order of the Munsif maintaining the attachment and contended that the order for attachment could not be made by the second Munsif of Gaya inasmuch as he had no jurisdiction over the property in the jurisdiction of the Munsif of Aurangabad. The learned District Judge allowed the appeal and held that the attachment by the Gaya. Court could not be maintained having regard to the fact that there would have to be a transfer of the decree to the Munsif of Aurangabad for execution and from this decision the decree-holder has come in second

miscellaneous appeal to this Court.

2. Now the principle which governs the question of jurisdiction of the local Civil Courts has been laid down in two authorities of this Court, that is to say in *Manogi Lal Sah v. Jog Sah* 13 Pat. 5 : 151 Ind. Cas. 375 : AIR 1931 Pat 199 : 15 PLT 215 : 7 RP 85(1) and also in *Chandmal Marwari and Others Vs. Raja Shib Prasad Singh and Another*, in which I pronounced judgment and attempted to explain the principle. Under the Bengal and Assam Civil Courts Act, Section 3, for each District there have to be four kinds of Courts, the Court of the District Judge, the Court of the Additional Judge, the Court of the Subordinate Judge and the Court of the Munsif; and it was pointed out in my judgment that it is open to the High Court and in some cases to the Local Government, for mere administrative purposes to say (take for instance a Munsif's Court alone) that for executing the jurisdiction of the Munsif in the District there may be one or more Munsif's but every Munsif is a Munsif for the District, although by an administrative order he exercises jurisdiction over a limited part of the District.

3. It was quite right and proper for the Munsif in whose jurisdiction the execution was proceeding to say that with regard to attachment or sale of property outside his jurisdiction so limited it is a matter of convenience to transfer it to the Munsif of another Sub-Division where the property is situated; but his jurisdiction as a Munsif of the District is unimpaired and he has jurisdiction, therefore, to attach property in any part of the District.

4. The order for attachment, therefore, was made with jurisdiction and cannot be disturbed. It is a matter of convenience which the Munsif should study as to whether in the circumstances it is not better, having regard to his limited area over which he has administrative jurisdiction, to transfer the case to another Munsif's Court. The order of the learned District Judge, therefore, allowing the appeal was in my opinion erroneous and should be reversed and the order of the Munsif should be restored. Inasmuch as there is no substance in the objection of the respondent to the Munsif's jurisdiction and as his behaviour in appealing to the District Judge was merely for the purpose of putting obstacles in the way of the decree-holder from executing his decree he should pay the costs throughout.

Manohar Lall, J.

5. I agree. The Government Notification appointing the learned Munsif distinctly appoints him as a Munsif for the District of Gaya.