

(1971) 11 AHC CK 0012

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 724 of 1970

Rameshwar Prasad Sharma

APPELLANT

Vs

Som Prakash

RESPONDENT

Date of Decision : 08-11-1971

Acts Referred:

Uttar Pradesh Panchayat Raj Act, 1947 — Section 64, 82

Uttar Pradesh Panchayat Raj Act, 1947 — Section 64, 82

Uttar Pradesh Panchayat Raj Act, 1947 — Section 64, 82

Citation : (1972) 42 AWR 31

Hon'ble Judges : H. Swarup, J

Bench : Single Bench

Advocate : S.K. Verma, for the Appellant;

Final Decision : Dismissed

Judgement

H. Swarup, J.—Rameshwar Prasad Sharma has filed this petition for the issue of a writ in the nature of Certiorari to quash the order of the learned Munsif dated 29-10-69, passed u/s 89 of the U.P. Panchayat Raj Act (hereinafter called the Act), by which he set aside the judgment and decree dated 23-9-68-passed by the Nyaya Panchayat and remanded the case to the Nyaya Panchayat with the direction that the plaint be returned for presentation to the proper court.

2. The facts leading to this petition are that the Petitioner filed an application before the Nyaya Panchayat Raipur Mokham for an injunction against Respondent No. 1, Som Prakash, to strain him from constructing the house on the land in dispute. Subsequently, the matter was compromised and a decree was passed by the Nyaya Panchayat in terms of the compromise. Som Prakash, not feeling satisfied, went up in revision and challenged the order of the Nyaya Panchayat on the ground that it had no jurisdiction to entertain the matter. The learned Munsif allowed the revision and passed the order mentioned above.

3. Section 64 of the Act defines the jurisdiction of Nyaya Panchayats. A Nyaya Panchayat can take cognizance only of suits of the nature mentioned in Section

64. The present dispute is not of the nature contemplated by that section. The Nyaya Panchayat, therefore, had no jurisdiction to take cognizance of the dispute or pass any decree in the matter.

4. Learned Counsel for the Petitioner has relied on Section 82 of the Act and has contended that it conferred on the Nyaya Panchayat an additional special jurisdiction in matters where the parties in dispute wanted a settlement or compromise of the same. This section, however, does not deal with the jurisdiction of Nyaya Panchayats but deals only with the procedure that it may follow in deciding a dispute that may come before it. The dispute has first to be one which is cognizable by a Nyaya Panchayat. If it is not, the Nyaya Panchayat has no jurisdiction to decide it either on merits or in terms of a settlement or compromise. The order of the learned Munsif cannot therefore be said to suffer from any error of law.

5. The petition is accordingly dismissed with costs.