

(2019) 12 PAT CK 0237

In the Patna High Court

Case No : Civil Revision No. 234 Of 2016 In Civil Writ Jurisdiction Case No. 6491 Of 2016

Shanti Devi

APPELLANT

Vs

Bhola Ray

RESPONDENT

Date of Decision : 16-12-2019

Acts Referred:

Bihar Panchayat Raj Act, 2006 — Section 110, 111

Citation : (2019) 12 PAT CK 0237

Hon'ble Judges : Chakradhari Sharan Singh, J

Bench : Single Bench

Advocate : Harendra Kumar Tiwary, J.S. Arora, Manoj Kumar

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties.
2. The petitioner has put to challenge an order dated 08.02.2016 passed by learned Civil Judge-I (Senior Division), Samastipur, in Gram Panchat Appeal No. 03/2014, whereby he has set aside the order dated 19.10.2008 passed by Gram Katchahry Raipur Bujurg, Sarai Ranjan, Samastipur, in Gram Katchahry Suit No. C-05/2008.
3. The petitioner had made an application before the Gram Katchahry with the allegation that the respondent had wrongly dispossessed her from the land in question which had given rise to Gram Katchahry Suit No. C-05/2008. The Gram Katchahry decreed the suit in favour of the petitioner on 19.10.2008. Subsequently, the petitioner is said to have filed Execution Case No. 02/2010 in the court of Munsif-10, Samastipur, for the execution of decree, granted by the Gram Panchayat.
4. I have heard Mr. Harendra Kumar Tiwary, learned counsel for the petitioner and Mr. J.S. Arora, Senior counsel representing the sole opposite party. I need not go into various details of what has been stated in the present application,

seeking quashing of the impugned order passed by the court below and submissions advanced on behalf of the parties, since I am of the view that the nature of claim, which the petitioner had made before the Gram Katchahry, could not have at all been entertained by the Gram Katchahry in the light of the clear language of Section 110 of Bihar Panchayat Raj Act, 2006. Section 110 reads as under:-

"110. Exclusive civil jurisdiction of a bench of the Gram Katchahry. - Notwithstanding anything contained in the Bengal, Agra and Assam Civil Courts Acts, 1887 (13 of 1887), the Provincial Small Cause Courts Act, 1887 (9 of 1887) and the Code of Civil Procedure, 1908 (5 of 1908) and subject to the provisions of this Act a bench of the Gram Katchahry shall have jurisdiction to hear and determine the following classes of suits:-

(a) When the value of the suit does not exceed ten thousand rupees, namely-

(i) suits for money due on contracts;

(ii) suits for the recovery of movable property or the value of such property;

(iii) suits for the recovery of rent; and

(iv) suits for compensation for wrongfully taking or injuring movable property, or for damaged property caused by cattle trespass;

(b) All suits of partition except wherein complicated question of law or title is involved;

But where the Gram Katchahry is of the view that where in a suit for partition, complicated question of law or title is involved, Gram Katchahry shall transfer such suit to the court of competent jurisdiction:

Provided that the parties to a suit of the above description under clauses (a) and (b) may by a written agreement refer the suit to the bench for decision irrespective of the value of the suit and the bench shall, subject to such Rules as may be prescribed as to court-fees and other matters, have jurisdiction to hear and determine the said suit under this Act:"

5. The jurisdiction of Gram Katchahry conferred under the Act, is thus, limited to determine the suits for money due on contracts, suit for recovery of movable property or the value of such property, suit for recovery of rent and suit for compensation for wrongly taking or injuring immovable property or for damaged property caused by cattle trespass; when the value of the suit does not exceed 10,000/- rupees. The Gram Katchahry has also jurisdiction to entertain that suits of partition, except wherein complicated question of law or title is involved.

6. It is apparent thus, that the Gram Katchahry could not have entertained the suit filed by the petitioner alleging wrongful dispossession from her land or for restoration of possession of the suit land.

7. Learned counsel appearing on behalf of the petitioner has submitted that the

jurisdiction of Gram Katchahry to entertain suits in certain cases has been barred under Section 111 of the Act and, therefore, any nature of suit which is not covered by Section 111 can be entertained by Gram Katchahry. The submission is manifestly unsustainable. Section 110 of the Act confers jurisdiction on Gram Katchahry to decide disputes of such nature as mentioned therein whereas Section 111 restricts its jurisdiction even in respect of such matter referred to in Section 110. Section 111 of the Act, as a matter of fact carves an exception out of the matters enumerated in Section 110 of the Act. Section 111 begins with "notwithstanding anything to the contrary contained in Section 110" which means that even if nature of suit is covered by Section 110, if either of the conditions prescribed under Section 111 is present, a suit cannot entertain by Gram Katchahry under Section 110 of the Act.

8. Learned counsel for the petitioner has submitted that there has been delay of six years in filing appeal which was wrongly entertained by the court below. I need not go into any aspect of the matter, since I am of the view that very exercise of power by Gram Katchahry in the facts and circumstances of the case was illegal beyond jurisdiction against statutory provisions under Section 110 of the Bihar Panchayat Raj Act, 2006 and, therefore, hit by the doctrine of coram non judice.

9. I do not find any merit in the writ application.

10. This writ application is, accordingly, dismissed.