
(2001) 03 PAT CK 0028
In the Patna High Court
Case No : A.F.O.D. No. 546 of 1975

State of Bihar

APPELLANT

Vs

Bodh Narayan Sao and Others

RESPONDENT

Date of Decision : 22-03-2001

Acts Referred:

Essential Commodities Act, 1955 — Section 7

Citation : (2001) 2 BLJR 1047 : (2001) 2 PLJR 373

Hon'ble Judges : S.N. Pathak, J

Bench : Single Bench

Judgement

S.N. Pathak, J.—This appeal is directed against the judgment dated 14th August, 1975 and decree dated 26th August, 1975 passed by Sri Aditya Narayan Chaturvedi, Additional Subordinate Judge III, Jehanabad (Gaya). The State of Bihar is the appellant in this appeal.

2. The relevant facts are that Bodh Narayan Sao, plaintiff-respondent No. 1 filed money suit No 22/1 of 1969/74 claiming compensation for the loss of wheat, weighing 116 quintals 8 kg. as also for damages for his malicious prosecution as also for damages on account of loss of his prestige in public estimation and damage to his business. Admittedly, the plaintiff-respondent No. 1 was a whole sale dealer in foodgrains and other articles and on 2nd August, 1967, the defendant Nos. 2 and 3 Shiv Pujan Singh and Digambar Jha, Anchal Adhikari and the Supply Inspector inspected his business premises and seized 116 quintals of wheat upon the allegations that the respondent No. 1 had mixed foreign wheat with indigenous wheat and was indulging in blackmarketing. This wheat was seized and kept in the Block godown, Jehanabad. When there was a petition by the plaintiff-respondents for release of the seized wheat, the Sub-Divisional Magistrate ordered that—"let the seized commodity be sold to the Government". The plaintiff-respondents went in revision before the Sessions Judge, who stayed the order of the Sub-Divisional Magistrate. In the meantime, charge-sheet was submitted by the police u/s 7 of the Essential Commodities Act but admittedly

the plaintiff-accused was discharged from the case because the Government analyst reported that there was no mixture of foreign wheat with the indigenous wheat however, the seized wheat got damaged in the flood water that had entered into the Block premises. The plaintiff-accused had earlier applied before the Sub-Divisional Magistrate to release the wheat on cash security to be furnished by the plaintiff-accused and this request was also turned down. Hence, the plaintiff filed the concerned money suit for realisation of the price of the wheat with interest along with compensation for loss of his prestige and reputation in the Society as also for loss on account of damage to his business due to his unwarranted and unjustified hand-cuffing. The trial Court allowed the money suit, so far as the price of the seized wheat was concerned and other reliefs sought for by the plaintiff-respondents were refused by the trial Court.

3. So far as the decree relating to the compensation for damage to the plaintiffs reputation and prestige is concerned, there is no cross-appeal nor cross-objection nor the findings of the trial Court in this connection were challenged before me. The refusal of relief relating to the loss of business prospect of the plaintiff-respondent has not also been assailed before me nor there is any cross-appeal or cross-objection. Hence, the appeal is confined to the grant of relief relating to price of wheat which was damaged, without interest.

4. Admittedly, the respondent No. 1 was prosecuted under the Essential Commodities Act and ultimately he was discharged from the case. 116 quintals of wheat were admittedly seized from his business premises and kept in the Block Godown. The plea of the State-appellant was that the concerned wheat was damaged by act of God as also by negligent behaviour of the respondents himself and hence he was not entitled to any kind of compensation. In this connection, it was submitted that in the year 1967(September), there was flood and there was also heavy raining during the relevant period and hence, it was beyond the control of the State officials to prevent damage to the seized wheat. The trial Court has analysed the evidence, oral and documentary, adduced by both the parties and it came to the conclusion that the river by the side of the block building was not far off as not to anticipate that flood might enter the Block building and hence, when in such a situation the Government officials failed to remove the seized wheat to a safer place, it amounted to carelessness and negligence on their parts. The trial Court also held that the river was also not so near to the Block building as to get flooded suddenly in a day or two or in a few hours in order to reach the Block Headquarters in such a short time as not to allow the custodians of the wheat to remove it to a safer place. So the trial Court held finally that the wheat was damaged on account of carelessness of the Block officials, including the Anchal Adhikari, etc. The trial Court exonerated the plaintiff-respondents on the ground that the stay granted by the Sessions Court, so far the order of the Sub-Divisional Magistrate regarding the sale of the wheat to the Government, did not prevent the Government officials from removing the concerned wheat to a safer place.

5. Before me, it was submitted vehemently by the State lawyer that since the wheat was damaged by the act of the plaintiff-respondent in stalling its sale by obtaining stay order from the Sessions Court and the flood and raining were the act of God (natural calamity) and, hence, the Government was not liable for any compensation to the plaintiff-respondents. However, it is to be noted that the respondent No. 1 had offered case security to the Sub-Divisional Magistrate for release of the concerned wheat to him. This request of the plaintiff-respondent was reasonable and, therefore, refusal of the State official in saving the wheat from being damaged was, of course, an obstinate act on their part. Moreover, it was the evidence on the part of the appellant and his Officials defendant Nos. 2 and 3 of the money suit that during the relevant period. (1967), there was great famine and so the wheat was to be distributed among the consumers. If the situation was so, as pleaded and evidenced by the appellant-defendants, it was all the more necessary for the Government officials to protect the wheat and prevent its damage so that it could be distributed among the needy consumers. The Government officials were, therefore, required to exercise greater caution and they should have taken a greater precaution to protect the seized wheat from flood or raining. It is further apparent from the evidence on the record and which the trial Court has taken note of that when the seized wheat kept in the Block godown got dampened, there was no attempt by the Government officiate to sun and dry it so that it may be made fit for consumption overall circumstances, therefore, were sufficient to point to the negligent and careless manner in which the seized wheat was handled by the Government officials, I am, therefore, of the opinion that the findings of the trial Court in this connection, were perfectly justified and based on the evidence on the record.

6. As a result of the aforesaid discussion, I am of the opinion that the relief which the trial Court granted to the plaintiff-respondent No. 1 was well merited and justified by the evidence on the record. The trial Court was rather lenient to the State and it granted bare price of the seized wheat, without its interest and, hence, the decree in this connection does not call for any interference by this Court.

7. This appeal is, accordingly, dismissed. However, in the circumstances of the case, there shall be no order as to costs of this appeal.