

(1950) 11 P&H CK 0030

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision Petition No. 415 of 1950

The State of Punjab

APPELLANT

Vs

L. Mohan Lal Bhayana

RESPONDENT

Date of Decision : 01-11-1950

Acts Referred:

Independence (Rights, Properties and Liabilities) Order, 1947 — Section 8(3)

Citation : (1950) 11 P&H CK 0030

Hon'ble Judges : Kapur, J

Bench : Single Bench

Advocate : B.K. Khanna, General, for the Appellant; M.L. Sethi, for the Respondent

Judgement

Kapur, J.—This is a rule directed against an order passed by the learned Senior Subordinate Judge of Gurgaon, holding that the liability to pay in the present case was that of the State of the Punjab (East Punjab). The facts which have given rise to this Petition are that the Plaintiff Mohan Lal brought a suit against the State of the East Punjab (now the Punjab) for the recovery of Rs. 30722-9/- for work done under a contract in connection with Damdama water storage scheme in the district of Gurgaon. The tender for this work was given by the Plaintiff on 10-1-1946 and in pursuance of this tender he commenced his work in the same month which was completed as far as he was concerned in August 1946.

2. In the Court of the Senior Subordinate Judge an objection was taken that the liability to pay was that of the West Punjab Province and the suit could not be brought against the East Punjab State. This objection was overruled and the present Petition is directed against this part of the order. Under the Indian Independence (Rights, Property and Liabilities) Order, 1947, provision is made for determining the liability of the different parts of what used to be British India in regard to contracts entered into before the partition of India. Section 8(3) of the Order provides as follows:

(3) Any contract made on behalf of the Province of the Punjab before the appointed day shall, as from that day:

(a) If the contract is for purposes which has from that day are exclusively purposes of the Province of East Punjab, he deemed to have been made on behalf of that Province instead of the Province of the Punjab: and

(b) In any other case be deemed to have been made on behalf of the Province of West Punjab instead of the Province of the Punjab;

and all rights and liabilities which have accrued or may accrue under any such contract shall, to the extent to which they would have been rights or liabilities of the Province of the Punjab, be rights or liabilities of the Province of East Punjab or the Province of West Punjab, as the case may be.

The work was done in the district of Gurgaon and the contract was for purposes which are exclusively the purposes of the Province of the East Punjab (now the Punjab State) and must in accordance with the wording of the section I have quoted above be deemed to have been made on behalf of that Province (now State) and therefore liabilities which have accrued under the contract now sued upon are the liabilities of the Province of the East Punjab (now Punjab). In the Province of West Bengal Vs. Midnapore Zemindary Co. Ltd., the dispute was with regard to the rent of a house in which a hospital was housed in Murshidabad. District and served the residents of that district. The rent accrued before the partition of Bengal and was payable by the old Province of Bengal and it was held that this, after the partition, would be the liability of West Bengal because Murshidabad had fallen into that Province after the partition. This case seems to apply to the facts of the present case and I would respectfully follow it. On the wording of the section as I read it the liability is of the East Punjab (now Punjab) and I agree that the finding of the learned Senior Subordinate Judge is correct and must be affirmed.

3. In the result, this application fails and the rule is discharged. Costs will be costs in the cause. Counsel's fee Rs. 100. The parties have been directed to appear before the learned Senior Subordinate Judge on 11-12-1950.