

(1968) 10 J&K CK 0002
In the Jammu And Kashmir High Court
Case No : Second Appeal No. 96 of 1967

University of Jammu and Kashmir

APPELLANT

Vs

Kishen Singh

RESPONDENT

Date of Decision : 10-10-1968

Acts Referred:

Citation : (1968) 10 J&K CK 0002

Hon'ble Judges : Jaswant Singh, J

Bench : Single Bench

Advocate : Ishwar Singh, for the Appellant; Sunder Lal, for the Respondent

Final Decision : Dismissed

Judgement

Jaswant Singh, J.—This is a civil second appeal against the decision dated 24-8-1967 of the learned Additional District Judge Srinagar,

affirming the judgment of the 1st Addl. Munsiff, Srinagar, decreeing the Plaintiff's suit for declaration to the effect that his date of birth was 14-9-

1992 (Samvat) and not 23rd Har 1992 and for directions to the University to make the necessary corrections in its records.

2. The learned Counsel for the Appellants has not, and I think, rightly so, assailed the correctness of the findings of fact arrived at by the two

Courts below. He has confined his submissions in regard to the non-maintainability of the suit. The only point urged by him is that the Court's

jurisdiction to entertain the suit against the university was barred. He has not been able to refer me to any provisions of law excluding the

jurisdiction of the Civil Court in a matter of the present character. In support of his contention he has only relied upon regulations Nos. 3 and 4 at

pages 218 and 219 of the Hand Book of the University (1958 Edition) which run

as under:

3. Ordinarily no application for correction in the date of birth in the records of the university shall be entertained provided that an application may

be entertained:

(a) Where it is claimed that there has been a genuine clerical error in transcribing the age of the applicant from the admission register of the high

school through which he had appeared in the Matriculation examination of the university to the application form for his admission to the said

examination; and

(b) That the application is made on the prescribed form (Appendix V) within four months from the date of issue of the Matriculation certificate

from the school or in the case of a private candidate only, from the university Registry to the applicant and is accompanied by a fee of Rs. 10/-

which shall not be refundable and

(c) that the application is submitted through the Headmaster concerned, who shall in support of the application furnish the relevant register of the

high school along with his own affidavit attesting the statement of the applicant.

4. if on examination of the evidence presented in support of the application, it is established to the satisfaction of the Vice Chancellor that there has

been a genuine clerical error in transcribing the age of the applicant from the admission register of the high school to his application for admission to

the Matriculation Examination, the Vice Chancellor may in his discretion authorise the necessary correction in the entry of the date of birth of the

applicant in the university records.

It is urged by the learned Counsel for the Appellant that the language used in the Regulations set out above barred the jurisdiction of the Civil Court

to entertain the suit. I have given my earnest consideration to this contention of the learned Counsel for the Appellant, but I am afraid, I cannot

accept the same.

3. The above regulations as would be plain from their perusal only limit the right of making an application to the university for correction of the date

of birth but do not bar the jurisdiction of the Civil Court to entertain a suit in that behalf. It is well settled principle of law that the exclusion of the

jurisdiction of Civil Courts is not to be readily inferred but that such exclusion

must either be explicit or clearly implied. It is also conceded by the learned Counsel for the Appellant that there is no express provision in the aforesaid regulations or any statute which can be said to bar the jurisdiction of the Civil Court, but it is urged by him that the regulations bar the jurisdiction of the Civil Court by implication.

4. Here again it is to be borne in mind that it is well settled that merely because a special law provides for certain remedies does not by itself

necessarily exclude the jurisdiction of the Civil Court to deal with a case brought before it. Reference in this connection may be made to the

following observations made by their Lordships of the Supreme Court in *Firm and Illuri Subbayya Chetty and Sons Vs. The State of Andhra*

Pradesh,

In dealing with the question whether Civil Court's jurisdiction to entertain a suit is barred or not, it is necessary to bear in mind the fact that there is

a general presumption that there must be a remedy in the ordinary Civil Courts to a citizen claiming that an amount has been recovered from him

illegally and that such a remedy can be held to be barred only on very clear and unmistakable indications to the contrary. The exclusion of the

jurisdiction of Civil Courts to entertain civil causes will not be assumed unless the relevant statute contains an express provision to that effect, or

leads to a necessary and inevitable implication of that nature. The mere fact that a special statute provides for certain remedies may not by itself

necessarily exclude the jurisdiction of the Civil Courts to deal with a case brought before it in respect of some of the matters covered by the said

Statute.

It, therefore remains to be seen whether there is any implied prohibition to entertain the suit. On a true interpretation of the regulations set out

above, I am unable to hold that the suit is barred even by implication. As the language employed in the above regulations neither expressly nor by

necessary implication excludes the jurisdiction of Civil Court to entertain a civil suit and grant relief in suitable cases, the Courts below were right in

overruling the objection of the Appellant that the suit by the Respondent for correction of his date of birth was not maintainable.

5. For the foregoing reasons, I find no merit in this appeal which is dismissed but in the circumstances of the case without any order as to costs.