

Narijan And Anr. vs State Through Deopujan Ram And Anr. on 4 November, 1953

Equivalent citations: AIR1954ALL309, AIR 1954 ALLAHABAD 309

ORDER

Agarwala, J.

1. This is an application under Article 227 of the Constitution against an order of the Panchayati Adalat convicting the applicants under sections 323 and 447 of the Indian Penal Code and sentencing each of them to a fine of Rs. 10/-. The first point urged by the learned counsel for the applicants is that there was another proceeding pending before a Tahsildar for correction of names in the revenue papers in respect of the possession over the plots in dispute in the present case, and that the contention of the applicants that they were in possession of the plots was to be decided by the Tahsildar and that, therefore, the Panchayati Adalat had no jurisdiction to decide the criminal complaint in which the same point was to be decided namely, whether the applicants were in possession of the plots in dispute. Learned counsel for the applicants relied on Section 73 of the Panchayat Raj Act in support of his contention.

2. In my judgment, Section 73 of the Panchayati Raj Act does not apply to the case. I think Clause (1) of that section deals with Civil or revenue matter, and Clause (2) deals with criminal matters. Under Clause (1) the Panchayati Adalat is forbidden to "try any suit, proceeding or issue in respect of any matter, which is pending for decision in or has been heard or decided by a court of competent jurisdiction in a former suit between the same parties under whom they or any of them claim."

It is obvious from reading of Clause (1) of Section 73 that the suit, proceeding or issue pending before the Panchayati Adalat must be of a Civil or revenue nature and the same matter must be pending for decision or must have been heard or decided by a court of competent jurisdiction in a former civil or revenue suit between the same parties under whom they or any of them claim. This clause does not apply to a criminal matter pending before a Panchayati Adalat, when a point in issue in the criminal matter is an issue in a Civil or revenue case in another court of competent jurisdiction. When a criminal case is pending in a Panchayati Adalat clause (2) applies. Clause (2) runs as follows :

"Where a case is pending in any court against an accused person in respect of any offence or where an accused person has been tried for any offence, no Panchayati Adalat shall take cognizance of any such offence, or on the same facts, of any other offence of which the accused might have been charged or convicted." Here a criminal

case was pending before a Panchayati Adalat. The mere fact that in a revenue proceeding for correction of names the same or similar point was to be decided by the Tahsildar, did not bar the Panchayati Adalat from proceeding with the trial of the criminal case pending before it.

3. The next point urged by the learned counsel is that he filed a revision against the order of the Panchayati Adalat before the Sub-Divisional Magistrate and he dismissed it because the counsel for the applicant was not present on the date of the hearing of the revision. If the counsel for the applicant is not present, the court may either dismiss the application in revision or may go through the judgment of its own accord and pass a suitable order. It is conceded before me that if the court had read the judgment no point would have been discovered which would have been in favour of the applicant, therefore nothing could be done by the Sub-Divisional Magistrate, when the applicant chose to absent himself on the date of the hearing. There is no force in this point also.

4. The application is therefore, rejected.