

## **Basist Singh vs Sm. Maharaji And Ors. on 9 December, 1954**

**Equivalent citations: AIR1955ALL366, AIR 1955 ALLAHABAD 366**

ORDER

Chaturvedi, J.

1. This is a petition under Article 226 of the Constitution. There was a dispute concerning mutation of names and the matter was, in due course, referred to the Panchayati Adalat. The Panchayati Adalat decided the case in favour of the petitioner. Respondents 1 and 2 went up in revision against this order of the Panchayati Adalat and the Sub-Divisional Officer set aside that order on the ground that it had been signed only of 4 Panches and not by 5. That order appears to have been passed before the enactment of Section 77-A, U.P. Panchayat Raj Act. It further appears that this order was passed without issuing any notice to the petitioner who had succeeded in the Panchayati Adalat. The petitioner, therefore, applied for a re-hearing of the revision on the ground that the order, quashing the judgment of the Panchayati Adalat, had been passed without any notice having been given to the petitioner. This application has been dismissed by the Sub-Divisional Officer who held that there was no necessity of informing the petitioner of the date fixed for hearing the revision because Section 85, U.P. Panchayat Raj Act gives powers to the Sub-Divisional Officer to set aside the order of a Panchayati Adalat on his own motion also. He also says that no prejudice has been caused to the petitioner by the omission to give this notice because it was a pure question of law and the decision was quite correct on the date on which it was given.

2. I am unable to agree with the decision given by the learned Sub-Divisional Officer. Rule 95-A (2), U.P. Panchayat Raj Rules provides that a notice of the application filed in revision along with its copy should be issued to the opposite-party and, before passing any order on the revision, the Court must give a reasonable opportunity to both the parties of being heard. Apart from that rule, there can be no doubt that these are judicial proceedings and, that being the position, an order passed by the Panchayati Adalat in favour of the petitioner could not be quashed without giving an opportunity to the petitioner of being heard in the case. This is a rule of natural justice which has been made applicable to all judicial proceedings and also to 'quasi-judicial' proceedings. The view of the learned Sub-Divisional Officer that there was no necessity of giving notice to the petitioner and that the petitioner has not, in any way, been prejudiced by the omission is, in my opinion, incorrect, being opposed both to the provisions of Rule 95-A and the rule of natural justice mentioned by me above.

3. The result, therefore, is that this petition is allowed and the order of the Sub-Divisional Officer, dated 3-12-1952, is quashed. It will be open to the officer now to consider the petitioner's application for a rehearing of the revision on its own merits and if it is correct that he was not served with a notice of the revision petition, he must be given an opportunity of opposing that revision. As it is not

known whether the application for re-hearing was opposed by the respondents or not, I direct the parties to bear their own costs.