

Calcutta High Court

Raghubir Singh Chetri vs Tezpur Local Board And Anr. on 15 December, 1938

Equivalent citations: AIR 1939 Cal 587

Author: Edgley

JUDGMENT Edgley, J.

1. In this case, the Local Board of Tezpur have sought to recover by a civil suit a certain sum of money due from the defendants in their capacity as the lessees of the Borgong Hat. In view of the provisions of Section 93-A, Assam Local Self-Government Act, there is no doubt that the amount due to the Board may be recovered as if the same were an arrear of land revenue recoverable under the Assam Land and Revenue Regulation 1886, but the question for consideration is whether this Regulation will have the effect of preventing the Board from realizing their dues by instituting a civil suit if they prefer to adopt the latter procedure. The learned Munsif held that the effect of Section 154(1), Assam Land and Revenue Regulations, was to debar the Board from instituting a civil suit in connexion with this matter. A contrary view has been adopted by the learned Subordinate Judge. The relevant provisions of Section 154 of the Regulation are as follows:

Section 154(1). - Except when otherwise expressly provided in this Regulation, or in rules issued under this Regulation no Civil Court shall exercise jurisdiction in any of the following matters:...(g) claims connected with, or arising out of, the collection of land revenue or any process for the recovery of an arrear of land revenue or of any sum which is by this Regulation, or by any other enactment for the time being in force, realizable as an arrear of land revenue.... (2) In all the above cases jurisdiction shall rest with the revenue authorities only.

2. As I read Sub-section (g) of Section 154(1) of the Regulation, the intention of the Legislature was to exclude the jurisdiction of Civil Courts in respect of claims of two kinds, namely (1) those connected with or arising out of the collection of land revenue and (2) similar claims connected with or arising out of any process for the recovery of (a) of an arrear of land revenue or (b) of any sum realizable as an arrear of land revenue. The present claim dearly does not fall within the first category mentioned above. The sum which the Local Board are now seeking to recover is admittedly a sum realizable as an arrear of land revenue, but, it is necessary to consider whether the claim of the Board connected with this sum arises out of any process so as to bring it within the second category of the claims mentioned above. In my opinion this condition has not been fulfilled. The expression "process" obviously has a technical meaning under the Assam Land and Revenue Regulation and refers to the various processes for the recovery of arrears of land revenue which are mentioned in Ch. 5 of the Regulation, and the methods which may be adopted in this connexion are actually described as "processes" in Section 91 of the Regulation. It is clear from the provisions of such Sections as 69, 79, 91 of the Regulation that ample scope is allowed to the aggrieved parties to file claims for the adjustment of their grievances in regard to these processes, and in such cases it would follow from what is stated in Section 154 read with Section 94 that the revenue authorities only would have jurisdiction to deal with such claims. In this case however, we are not concerned with any process which has been issued under Oh. 5 of the Regulation for the recovery of the amount due to the Local Board. The Board have chosen to institute a civil suit for the recovery of the money due to them, and I find nothing in the Regulation to debar them from adopting this course if

they wish to do so. It is true that in a previous proceeding the Local Board resorted to various processes for the realization of their dues. It appears that some portion of the amount due to the Board was recovered in this way, but the present civil suit is for the realization of the balance due to the Board. The claim of the Board arises directly from a breach of the conditions of the defendant's lease and does not appear to be connected with the processes previously issued in such a way as to bring it within the scope of Section 154(g) of the Regulation. As far as those particular processes are concerned, it is not contended that any difficulty occurred which could have given rise to any claim. All that appears to have happened was that the Tezpur Board attached and sold some of the moveable properties belonging to the defendants under Section 69 of the Regulation and no objection or claim was filed by any person in connexion with this procedure.

3. It is further urged that, as the Tezpur Board once resorted to the revenue authorities for the recovery of their dues, they were thereby debarred from recovering any portion of the money due to them in a Civil Court. I am not however prepared to accept this argument. Ch. 5 of the Regulation merely provides a speedy execution procedure for realizing revenue and quasi revenue. As in the present case the whole of the amount due could not be realized in execution, the debt due to the Board remained unsatisfied, and, in my view, it remained open to them to recover this money by instituting a civil suit if they considered this method the most convenient means for the purpose of realizing their dues. It is argued that Section 94 of the Regulation indicates that all the sums realizable as arrears of land revenue must be recovered under the provisions of Ch. 5, but I do not think that that Section can bear this interpretation. I consider that Section 94 should be read as subject to Section 154 by which the jurisdiction of the Civil Courts is expressly excluded in connexion with certain matters only. If a process were issued under Ch. 5 for the recovery of a sum realizable as land revenue the provisions of Ch. 5 would automatically apply by virtue of Section 94, but if the party entitled to recover such a sum instituted a suit in a Civil Court for this purpose there is nothing, in my opinion, in the Regulation to prevent the party from doing so. In this view of the case, I consider that the decision of the learned Subordinate Judge is correct. This appeal is therefore dismissed with costs. The hearing fee is assessed at three gold mohurs. Leave to prefer a further appeal under Clause 15 of the Letters Patent is refused. The rule for stay is discharged. No order is made as to costs in the rule.