

Smt. Haseen Fatima vs Asst. Custodian Evacuee Property on 22 July, 1954

Equivalent citations: AIR1955ALL97, AIR 1955 ALLAHABAD 97

JUDGMENT

Malik, C.J.

1. This is a writ petition under Article 226 of the Constitution which, to our minds, is entirely misconceived. The question in dispute is whether certain items of property belonged to the applicant or to her son who, we understand, is an evacuee. The Administration of Evacuee Property Act makes elaborate provisions for enquiry into the question and the decision has to be made under that Act by Tribunals named therein. Even ordinary civil Courts have been deprived of their jurisdiction to decide the question of title, whether the property in dispute belonged or did not belong to an evacuee.
2. In case Tribunals mentioned under the Act fail to exercise their jurisdiction, or exceed their jurisdiction, or act in any other manner which may be said to be on the face of it illegal or grossly improper, a writ petition may lie under Article 226 of the Constitution for issue of proper directions to the Tribunals concerned or even to correct their errors. The reliefs claimed here are, however, in effect that we should declare that certain items of property belong to the applicant and then restrain the Assistant Custodian from taking possession of certain items of property and from selling the fruits of certain groves. All this is beyond the scope of Article 226 of the Constitution.
3. The application, therefore, fails and is dismissed with costs, which we assess at Rs. 300/-.