

Channing Sangma Vs. Singsan Sangma

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Court : Guwahati

Decided On : Dec-04-1952

Judge : Deka, J.

Acts : Garo Hills Administration of Justice and Police Rules - Rules 32 and 35;
[Code of Civil Procedure \(CPC\) , 1908](#) - Order 41, Rule 24

Appeal No. : Civil Revn. No. 64 (H) of 1952

Appellant : Channing Sangma

Respondent : Singsan Sangma

Advocate for Def. : J.C. Sen, Adv.

Advocate for Pet/Ap. : P.K. Lahiri, Adv.

Disposition : Petition rejected

Prior history : Deka, J. 1. This is a petition of revision filed under Rule 35 of the Rules for the Administration of Justice and Police in the Garo Hills District. The petitioner is one Changing Sangma and he moves this Court against the order of the Deputy Commissioner of Garo Hills passed in Revenue Appeal No.7 of 1951-52, dated 29-3-52. 2. The case for the petitioner is that he was illegally removed from the Nokmaship of Menonggiri Akhing which was shared with his wife Ronggat who is now dead. The opp

Judgement :

Deka, J.

1. This is a petition of revision filed under Rule 35 of the Rules for the Administration of Justice and Police in the Garo Hills District. The petitioner is one Changing Sangma and he moves this Court against the order of the Deputy Commissioner of Garo Hills passed in Revenue Appeal No.7 of 1951-52, dated 29-3-52.

2. The case for the petitioner is that he was illegally removed from the Nokmaship of Menonggiri Akhing which was shared with his wife Ronggat who is now dead. The opposite party Singsan Sangma filed a petition before the Extra Assistant Commissioner at Tura on 31-8-50 that in view of the fact that Channing was not looking after his wife Ronggat who was ill, the petitioner and the Maharis or clansmen had released Channing from Akhym (that is the obligation to take a second wife to be provided by the clansmen) and the Maharis did not want him to continue as Nokma. The case had a chequered career and I need not refer to the interim stages. Mt. Ronggat was in the meantime dead and Channing married another wife who he says was from the same clan as Ronggat. The case of the opposite-party was that Channing had already been released from Akhym and he had no right to continue as a Nokma. The learned Assistant to the Deputy Commissioner passed an order on 7-11-1950 in favour of Singsan & his wife Simijing declaring them to be Nokmas. But that order was set aside in Revenue Appeal No. 13/1950-51 by the Deputy Commissioner as it was an 'ex parte' order and he remanded the case to the trial court. The learned Assistant to the Deputy Commissioner on remand referred the matter to a Panchayat as provided under Rule 31 of the Rules for the Administration of Justice and Police in the Garo Hills District. After repeated extension of time for filing of the decision of the panchayat,--on 8-5-51, three of the members constituting the panchayat submitted a report declaring Channing and his new wife Machani to be eligible to be Nokmas, and the fourth member filed a dissentient note and the umpire was absent. On the receipt of the report from the arbitrators the E. A C. asked the umpire to appear before him and state what happened and the umpire on 29-5-51

stated that no final decision was arrived at in the meeting of the panchayat held in February, as alleged in the report filed by some of the members of the panchayat.

The Assistant to the Deputy Commissioner again asked the umpire to re-enquire into the matter by holding a fresh meeting of the panchayat and submit a report by 30-6-1951. On that date, the umpire submitted a report stating that the panchayat was held on 22-6-1951 as directed by the Court but all the members were not present and he wanted to resign from the office of the umpire and suggested that the matter should be heard in Court. The E. A. C. on that date accepted the previous report of the majority of members of the panchayat and passed a decree based thereon. Rule 31 of the Rules for the Administration, of Justice and Police in the

Garo Hills District provides that when the case is decided by the panchayat, the umpire should appear with the parties before the Court which shall proceed to record the decision and enforce it as its own and from such decision there should be no appeal. But in this case, as a matter of fact, no competent report was made by the panchayat or by the umpire. On the other hand, the report of the umpire disclosed that there was no proper meeting of the panchayat at any stage nor did the members in a body come to any decision which could be considered as final or conclusive.

3. Mr. Lahiri appearing for the petitioner contends that under such circumstances, the only possible order is that there should have been another reference to the panchayat for a decision in the case and the Deputy Commissioner had no jurisdiction to enter into the matter and record evidence and decide it on merits as he had done.

4. Rule 32 of the Garo Hills Administration Rules provides that an appeal would lie from the decision of the lasker or other duly recognised village authorities to the Deputy Commissioner or his Assistants duly authorised and if the appellate Court sees reasons to doubt the justice of the decision, it was competent to try the case 'de novo' or refer it to the panchayat as above. Rule 35 provides that an appeal to the Deputy Commissioner would lie against the decision of any of his Assistants provided that the appeal is filed within the period prescribed. The powers of the

Court of appeal are nowhere specifically prescribed but the administration of civil justice in the Garo Hills is entrusted to the Deputy Commissioner and as such he has every right to pass any reasonable order which as an appellate Court he could do, keeping before him the, spirit of the Civil Procedure Code. Here the power that could be exercised under R. 32 could undoubtedly be exercised under R. 35 as well which speaks of the revisional power of the Deputy Commissioner as well his appellate jurisdiction.

5. Under these circumstances, we cannot

say that the Deputy Commissioner exceeded

his jurisdiction or acted without jurisdiction

in the matter of hearing the suit himself by re

cording evidence. I have perused the judgment

of the learned Deputy Commissioner and Mr.

Lahiri does not say that there is anything

wrong with the findings except that he contends that the procedure has been illegal. Taking the spirit of the Civil Rules applicable to

the Garo Hills District, I do not think that

there has been any illegality or want of jurisdiction in the matter of the Deputy Commissioner hearing the matter 'de novo'. He has

given cogent reasons for holding that the petitioner Channing Sangma has been legitimately

released from the Akhym and he has lost the

right to inherit his wife's (Ronggat's) Akhing

in the matter of Nokmaship. His present wife

does not give him the status of the Nokma as

found by the learned Deputy Commissioner

and I see no reason, to interfere with the findings arrived at by the learned Deputy Com

missioner. The petition is, therefore, rejected

and the Rule is discharged. I, however, make

no order as to costs.

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