

Bhujharat and ors. Vs. Emperor

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SooperKanoon Citation : sooperkanoon.com/480744

Court : Allahabad

Decided On : Aug-06-1935

Reported in : AIR1935All925; 159Ind.Cas.154

Appellant : Bhujharat and ors.

Respondent : Emperor

Judgement :

Collister, J.

1. The 19 applicants have been convicted under Section 147 and 5 of them have been ordered under Section 22 of the Cattle Trespass Act, to pay compensation of Rs. 5 each to the complainant. The appellants appealed to the Additional Sessions Judge and the result was that some of the sentences under Section 147, Penal Code, were reduced and the amount of compensation to be paid by applicants Nos. 1 to 5 was reduced from Rs. 20 each to Rs. 5 each. The only point which arises for determination in this revision is whether compensation under Section 22, Cattle Trespass Act, can legally be awarded when it is not claimed. This is the point which has been argued before me. In Baijnath Sahai v. Emperor 1923 Pat. 292, a learned Judge of the Patna High Court, held that, Court is not justified in awarding compensation under, Section 22, where such compensation has not been claimed in the petition of complaint. In Ramdularey v. Manohar 1930 Nag. 149, a learned Judge of the Judicial Commissioners Court at Nagpur has expressed a similar

view. No reasons are given for this decision in either of the above two cases; it is merely laid down that if a complainant does not claim compensation, he cannot be compensated.

2. The Patna case has been dissented from by the Madras High Court in *Kolandai Chetty v. Perumal Kavundan* 1928 Mad 369, where it was held that there is no restriction in the Act that the Court cannot award compensation unless it is claimed in the complaint. There is, so far as I can see, nothing whatsoever in the language of Section 22 Cattle Trespass Act, to support the view that compensation can only be given to the complainant if he actually lays a claim for it in his petition of complaint. What the section says is:

If the seizure be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure and detention, reasonable compensation....

3. The only meaning which I can read into these words is that if the Court is of opinion that the seizure was illegal and that loss has been caused to the complainant thereby it is its duty to award compensation for such loss to the complainant. It has been found in the present case that the complainant did suffer a loss. In my opinion the award of compensation in this case was not illegal and was in accordance with the provisions of Section 22, Cattle Trespass Act. This application is accordingly dismissed.