

Kaloo Vs. State

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Court : Madhya Pradesh

Decided On : Aug-01-1962

Reported in : AIR1963MP124; 1963CriLJ442; 1962MPLJ1094

Judge : A.H. Khan, J.

Acts : [Police Act, 1861](#) - Sections 25, 26 and 27

Appeal No. : Criminal Revn. No. 35 of 1962

Appellant : Kaloo

Respondent : State

Advocate for Def. : Govt. Adv.

Advocate for Pet/Ap. : Nagarkar, Adv.

Disposition : Revision allowed

Judgement :

ORDER

A.H. Khan, J.

1. The facts giving rise to this revision in short are that on the death of one Sitaram, resident of village Jalalpur, the Patel of the village reported the matter to the Police, stating that Sitaram was possessed of both movable and immovable

properties, and, that he had died without leaving an heir. The Police, acting under Section 25 of the Police Act (Act No. V of 1361), took charge of all the alleged property of the deceased as unclaimed property, and making an inventory of the property, put lip the case before the Additional District Magistrate, Morena. It was registered as Case No. 69 of 1957 (Lawaris).

In the meanwhile one Kalloo, the present petitioner, objected to the taking of the property by the Police and stated that the property belonged to him. The learned Additional District Magistrate passed an order that the case be sent to the First Class Magistrate of Jora, where the property was situated, and, where Sitaram (deceased) died, but some how or other instead of going to the First Class Magistrate, Jora, the case found its way to the Court of the learned Sessions Judge, Bhind. The learned Sessions Judge, Bhind, sent the case to the learned Additional District Magistrate to hold an enquiry and submit a report. The report of the learned Additional District Magistrate Morena, was in favour of the petitioner Kailoo. After perusing it, the learned Sessions Judge, ignored the report and passed an order to the effect that the claimant Kalloo ((petitioner) should obtain a certificate of succession under the Indian Succession Act from the proper court. Aggrieved by this order, the petitioner has filed this revision.

2. It is unnecessary to consider the case on merits, because the learned Sessions Judge, Bhind, whose order is under consideration had no jurisdiction at all to pass any order in this case.

3. In cases of unclaimed property, the Police acts under Sections. 25, 26 and 27 of the Police Act (Act No. V of 1861). According to Section 25, it is the duty oi every Police Officer to take charge of an unclaimed property, to furnish an inventory thereof to the Magistrate of the District. Furthermore, the Police is required to be guided in the disposal of the property by the order of the Magistrate of the District. The Magistrate of the District really means the District Magistrate of the place within whose jurisdiction the unclaimed property is. Section 26 of the Police Act deals with the powers of the Magistrate of the(sic)RICT in such cases. After making an enquiry, the Magistrate shall pass a proper order. It is obvious that the learned Sessions Judge does not at all come in the picture according to the scheme of the

Act. In the circumstances, the order of the learned Sessions Judge under revision is beyond jurisdiction.

4. The proceedings under Sections. 25, 26 and 27 of the Police Act are of summary nature. If the claimant satisfies the District Magistrate as to his claim, the District Magistrate shall pass an order that the property be handed over to him. But if the Magistrate is not satisfied that the claimant has any right to the property, an order of the sale of the property shall be passed and the proceeds shall be placed at the disposal of the State under Section 27 of the Police Act. Any person considering himself aggrieved by the order of the District Magistrate may establish his right to the property in a Civil Court. I have tried to sum up the law relating to unclaimed property very briefly, because this case gives me the impression that those who dealt with this case were not fully acquainted with the law relating to unclaimed property.

5. For reasons stated above, the revision is allowed, and quashing all the orders hitherto passed in this case, it is remitted to the District Magistrate of Morena for proceeding further according to law.

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