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Court : Rajasthan

Decided On : Apr-15-1957

Reported in : AIR1958Raj60

Judge : Bapna and; Sharma, JJ.

Acts : [States Reorganisation Act, 1956](#) - Sections 125; [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 20

Appeal No. : Civil Reference No. 30 of 1956

Appellant : Surajmal and ors.

Respondent : Hiralal and ors.

Judgement :

Bapna, J.

1. This is a reference by the learned Civil Judge, Baran.

2. In an execution petition before the learned Civil Judge, the judgment-debtor raised an objection that he was a resident of Sironj, which is now in Madhya Pradesh under the [States Reorganisation Act, 1956](#), and, therefore, the Court at Baran had no jurisdiction to continue the proceedings. The learned Civil Judge has referred the matter to this Court for decision under Section 125(2) of the States Reorganisation Act.

3. On going through the record, it appears that suit No, 3 of 1952, which ended in a decree, was instituted by Surajmal, Ramgopal, and Rajmal, residents of Chhipabarod in Rajas-than against Hiralal, Pannalal and Dhannalal, residents of Sironj, on the allegations that 100 bags of maize were sent by the firm of the plaintiffs carrying on business at Chhipabarod on the 5th of December, 1950, to the defendants' firm at Sironj for sale and remittance of the sale proceeds to the plaintiffs.

The allegation of the plaintiffs was that the defendants did not comply with the instructions of the plaintiffs, and did not return the maize in spite of notice, and, therefore, they were responsible to pay the price thereof, which was claimed to be Rs. 2.650/-. The plea of the defendants was that the maize had been received for sale, but had been seized by the Government in connection with a criminal case, and when it was released on 6th October 1951, the defendants wrote to the plaintiffs to take back their maize, but they did not do so, and, there' fore, the defendants were not liable to pay any amount.

The Civil Judge, Baran, after evidence, gave a decree for Rs. 2275/- on a finding that the defendants had committed default in carrying out the instructions of the plaintiffs. On appeal, the learned District Judge was of opinion that the non-sale was not due to any fault of the defendants, and, therefore, the decree was modified. The defendants were directed to return the 100 bags of maize received by the defendants to the plaintiffs, failing which they were made liable to pay Rs. 2275/- to the plaintiffs.

The plaintiffs filed a second appeal urging that they were not bound to receive the goods which had all deteriorated in the meanwhile, and prayed for a money decree for the amount claimed. This appeal, which is appeal No. 23 of 1955, was filed on 17th January, 1955, and is still pending in the High Court. In the meanwhile, the decree-holders on 31st March, 1955, presented an execution application that the defendants did not return the maize as directed by the decree of the District Judge, and, therefore, they were liable to pay Rs. 2275/- as directed by the decree. In this execution application the defendants raised the objection of jurisdiction which has been referred to by the learned Civil Judge to this Court.

4. In respect of pending proceedings, the provision in the States Reorganisation Act 1956 is found in S, 125, which is as follows:

'(1) Every proceeding pending immediately before the appointed day before a Court (other than a High Court), tribunal, authority or officer in any area which on that day falls within a State shall, if it is a proceeding relating exclusively to any part of the territories which as from that day are the territories of another State, stand transferred to the corresponding Court, tribunal, authority or officer in the other State.

(2) If any question arises as to whether any proceeding should stand transferred under Sub-section (1), it shall be referred to the High Court having jurisdiction in respect of the area in which the Court, tribunal, authority or officer before which or whom such proceeding is pending on the appointed day, is functioning and the decision of that High Court shall be final.

(3) In this section-

(a) 'proceeding' includes any suit, case or appeal; and

(b) 'corresponding court, tribunal, authority or officer' in a State means-

(i) the court, tribunal, authority or officer in that State in which, or before whom, the proceeding would have lain if the proceeding had been instituted after the appointed day, or

(ii) in case of doubt, such court, tribunal, authority or officer in that State as may be determined after the appointed day by the Government of that State, or before the appointed day by the Government of the corresponding State, to be the corresponding court, tribunal, authority or officer.'

5. The above provision directs transfer of a case to another territory if the proceeding relates exclusively to any part of the territory of the other State. In the present case, the goods were despatched from Chhipabarod and their sale proceeds were to be remitted by the defendants to the plaintiffs at Chhipabarod, and further according, to the decree the defendants were directed to return the

goods to the plaintiffs who resided at Chhipabarod. The cause of action obviously arose partly at Chhipabarod. . The proceedings did not exclusively relate to Sironj, and, therefore, did not require to be transferred. The Court of Civil Judge at Baran had jurisdiction to entertain and decide the execution proceedings.

6. It may be mentioned that the second appeal which arose out of the case was not transferred under Section 61 of the Act to the Madhya Pradesh High Court.

7. The answer to the reference, therefore, is that the Civil Judge's Court at Baran has jurisdiction to entertain and continue the execution proceedings which had been instituted in that Court.

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