

Ramnath Pandit Vs. Emperor

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Court : Kolkata

Decided On : Jan-20-1911

Reported in : (1911)ILR38Cal413

Judge : Holmwood; and Sharfuddin, JJ.

Appellant : Ramnath Pandit

Respondent : Emperor

Judgement :

Holmwood and Sharfuddin, JJ.

1. From the wording of the Rule it appears that it was issued under a misapprehension that Section 76(a) applies. We find from the explanation of the District Magistrate that the case is tinder Section 76(b) and the embankment is within the limits of the tract included in the notice under Section 6, which is Bengal Government Notification No. 77, dated 11th March, 1910. It is, therefore, clear that no addition can be made to the existing embankment without the permission of the Collector.

2. It is sought to be argued that the ruling in Goverdhan Sinha v. Queen-Empress (1885) I.L.R. 11 Cale. 570, has not been overruled by the full Bench case in Ajodhya Nath Koila v. Raj Krishto Bhar (1902) I.L.R. 30 Cale. 481. But it is clear from the terms of the reference that that ruling has been distinctly and clearly

overruled as far as the interpretation of the words 'existing embankments' in both the Clauses (b) and (a) are concerned. If, as the Pull Bench held, the words 'existing embankments' in Clause (a) mean embankments existing at the time that the addition is made, then a fortiori the words 'existing embankments' in Clause (b) must have the same interpretation, inasmuch as there is no such proviso attached to Clause (b) as is attached to Clause (a). The only offence constituted by Clause (b) is that of omitting to obtain the sanction of the Collector to making any addition to an existing embankment within the prohibitory area. We must, therefore, hold that the conviction and sentence in this case are correct, and the Rule must be discharged.

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