Gring Vs. Ives

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Court : US Supreme Court

Decided On : Jan-09-1912

Appeal No. : 222 U.S. 365

Appellant : Gring

Respondent : ives

Judgement :

Gring v. Ives - 222 U.S. 365 (1912)
U.S. Supreme Court Gring v. Ives, 222 U.S. 365 (1912)

Gring v. Ives

No. 115

Submitted December 18, 1911

Decided January 9, 1912

222 U.S. 365

ERROR TO THE SUPREME COURT

OF THE STATE OF NORTH CAROLINA

SYLLABUS

The Act of March 3, 1899, c. 425, 10, 30 Stat. 1121, 1151, authorizing establishment of harbor lines, was not intended, and did not operate, to paralyze all state power concerning structures of every character in navigable waters within their borders, or to automatically destroy property rights previously acquired under sanction of state authority. *Cummings v. Chicago,* 188 U. S. 410 .

In this case, the federal question relied upon is so absolutely without merit, and the grounds are so frivolous, as not to afford a basis for exercise of jurisdiction, and the writ of error is dismissed.

Writ of error to review 150 N.C. 137 dismissed.

The facts are stated in the opinion.

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MR. CHIEF JUSTICE WHITE delivered the opinion of the Court.

Gring, upon the theory that federal questions were wrongly decided against him, seeks the reversal of a judgment for $300, damages occasioned by the running of a tugboat, of which he was the owner, against a marine railway, the property of the defendants in error, who were plaintiffs below. The railway was situated on the shore of the Pasquotank River in the harbor of Elizabeth City, North Carolina. The injury to the railway was committed on the night of December 24, 1905. The Supreme Court of North Carolina, in affirming the judgment of the trial court, rendered on the verdict of a jury, stated these facts:

The marine railway had been in existence for eighteen years prior to the injury complained of. The railway extended to the margin of the channel, and between the end of the railway and the opposite side of the channel, which was buoyed, there was a space of 540 feet, constituting the usual highway for navigation. The night upon which the tug collided with the bridge was "a bright moonlight night, and there was also a bonfire on shore and a line of electric lights which lighted up the

harbor." The conduct which occasioned the running of the tug against the railway was thus stated (150 N.C. 137-138):

"The evidence is that the tugboat, which was bound down the river, instead of following the usual course, ran diagonally towards the shore, and, striking the marine railway of plaintiffs, damaged it. The captain of the tugboat testified that he knew the locality well, having passed it more than two hundred times. After the injury, he offered to pay damages, but the parties could not agree upon the amount."

Commenting upon the facts thus stated, the court observed:

"Clearly the proximate cause [of the injury] was the negligence of the tugboat in not proceeding upon its course in a channel 540 feet

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wide, but going several hundred feet out of its way and driving inshore against the marine railway."

In disposing of a contention concerning an alleged harbor line established under the Act of Congress of March 3, 1899, c. 425, 10, 30 Stat. 1151, and the proposition that the railway, because it projected beyond said assumed line, was a public nuisance, and therefore the complainant was entitled to negligently and wantonly injure it, the court said (p. 138):

"Whether there was a harbor line or not, the marine railway was a necessity for the repair of vessels. It was not shown to be located there illegally, or that it was a public nuisance, and if it had been, the tugboat was not authorized to run into it unnecessarily and negligently, as the evidence tended to show."

The only one of the assignments of error filed at the time this writ of error was sued out which in the remotest way relates to a federal question is the third, which is concerned with the reasoning of the court just referred to, and is based upon the assumption that there could be no recovery because of the asserted establishment by the Secretary of War, some time between 1900 and 1902, of a harbor line

under the authority of the act above mentioned. In argument, the proposition to which the assignment relates is that the court erred in not deciding that any structure projecting into the river beyond the established harbor line was illegal and a public nuisance, which the plaintiff might wantonly injure or destroy. As we have seen, however, the court found as an undisputed fact that the railway in question was constructed and had been in operation many years before the establishment of the alleged harbor line. Under this condition, the court was obviously right in holding that the railway had not been located in violation of the Act of 1899, and was equally obviously right in deciding that the plaintiff had no right to recklessly injure it. The basis of the assumed federal

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right rests upon the plainly erroneous assumption that the Act of 1899 was intended to or did operate to paralyze all state power concerning structures of every character in navigable waters within their borders, and to destroy automatically all vested rights of property in such works, even although acquired prior to the Act of 1899, under the sanction of state authority. *Cummings v. Chicago,* 188 U. S. 410 . *See also Lake Shore & Michigan Southern Ry. Co. v. Ohio,* 165 U. S. 365 .

In view of the character of the case, the facts found by the court below, and the absolute want of merit in the federal question relied upon, we are of opinion that the grounds relied upon for review are of so frivolous a nature as not to afford the basis for the exercise of jurisdiction, and our decree therefore will be,

Dismissed for want of jurisdiction.