

(1966) 10 AHC CK 0001

Allahabad High Court

Case No: Criminal Rev. No. 285 of 1965

State

APPELLANT

Vs

Baboo Singh and
Another

RESPONDENT

Date of Decision: Oct. 6, 1966

Acts Referred:

- Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 - Section 122B(2)

Citation: (1967) 37 AWR 227

Hon'ble Judges: D.P. Uniyal, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

D.P. Uniyal, J.

This revision has been filed by the State of UP against the order of the Additional Sessions Judge, Bulandshahr by which he set aside the order of the Tahsildar (Assistant Collector) awarding damages of Rs. 40/- each against Babu Singh Pradhan and Roshan Singh.

2. It appears that Babu Singh, Pradhan of Gaon Samaj and one Roshan Singh, cut and misappropriated 5 trees belonging to the Gaon Samaj. On a report made against the accused the Tahsildar Magistrate passed an order u/s 122-B(2) of the UP Zamindari Abolition and Land Reforms Act (the Act) directing each of the two Applicants to pay Rs. 40/- as compensation to the Gaon Samaj. Against the above order of the Magistrate an appeal was preferred by Babu Singh and Roshan Singh in the court of the Sessions Judge treating the said order as one of conviction. Strangely enough the Additional Assistant Sessions Judge without caring to read the order of the Tahsildar-Assistant Collector and without applying his mind to the facts of the case, straightway dealt with the matter as if he were hearing a criminal appeal and passed an order purporting to acquit the above said persons. I regret to say

that the learned judge did not care to look into the provisions of the Act for had he done so he would have immediately realised that the procedure adopted by him was wholly illegal and without jurisdiction. Sub-section (4) of Section 122-(B) of the Act lays down that the decision of the Collector (which expression includes an Assistant Collector) under Sub-section (2) shall, subject to the result of his suit by the aggrieved party before a court of competent jurisdiction, be final and conclusive.

3. In the first place, this was not a criminal proceeding of a summary character for assessing the damage caused to Gaon Samaj property. It is, regrettable that the Assistant Sessions Judge should have gone through a proceeding which was wholly unwarranted and illegal.

4. I accordingly set aside the order of the Additional Assistant Sessions Judge dated 14-11-1964 and restore that of the Tahsildar Assistant Collector.