**(1938) 12 AHC CK 0012**

**Allahabad High Court**

**Case No:** None

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| M. Brij Behari Lal | | APPELLANT |
| | Vs | |
| Municipal Board of Jhansi | | RESPONDENT |

**Date of Decision:** Dec. 21, 1938

**Citation:** AIR 1939 All 212 : (1939) 9 AWR 169

**Hon'ble Judges:** Verma, J

**Bench:** Division Bench

**Final Decision:** Dismissed

**Judgement**

Verma, J.

This is an application by the plaintiff in. a Small Cause Court suit which was transferred to and tried by the Mumsif of Jhansi. The claim was for the recovery of Rs. 35 as damages from the Municipal Board. The plaintiff alleged that no was the owner of a house within the Municipal limits, that the house was connected to the Municipal water main on 11th January 1936, that he received no water from 11th January 1936 to 4th February 1936, that he received an insufficient supply of water for some time thereafter and that he had in consequence to incur an expenditure of Rs. 35 in order to arrange for water supply to his house. In para. 4 of the plaint it was alleged that the plaintiff was entitled to the supply of water for four hours in the morning from 6 A.M. to 10 A.M. and for another four hours in the evening from 2 P.M. to 6 P.M. according to Rule 3 of the rules framed by the Municipal Board of Jhansi u/s 235, U.P. Municipalities Act. The defendant Municipal Board filed a written statement contesting the claim on various grounds. The Court below has dismissed the suit. It has held that Clause (a) of Sub-section (1) of Section 228 of the Act refers to the supply of water to the general public and that Clause (c) is the provision which deals with the duties of the Municipal Board for supplying water to owners or occupiers of houses entitled to connexion under Clause (b). It has further held that Rule 3 framed by the defendant Municipal Board refers to the supply of water to the general public under Clause (a) and that the rule which deals with the supply of water to owners

and occupiers of houses is Rule 10, and that on a correct interpretation of Rules 3 and 10 and Section 228 of the Act, the plaintiff''s suit is misconceived and that he is not entitled to the relief claimed.

2. Having heard learned Counsel for the plaintiff-applicant, we have come to the conclusion that the decree passed by the Court below is correct. Section 228 of the Act runs as follows:

(1) The Board of every Municipality in which a water-tax is imposed shall be bound (a) throughout a prescribed area or prescribed areas, (i) to maintain a system of water supply through pipes, and (ii) to lay on water at a prescribed pressure and during prescribed hours, and (iii) to supply, in all the chief streets in which mains have been laid, water to stand-pipes or pumps situated at such intervals as are prescribed, and (b) to allow the owner or occupier of any building or land assessed to a prescribed minimum water-tax to connect for the purpose of obtaining water for domestic purposes, the building or land with a main by means of a communication pipe of the prescribed size and description, and (c) to supply within every 24 hours, to every owner or occupier entitled to a house connexion under Clause (b) whoso land or building is provided therewith, such amount of water as is prescribed with reference to the water-tax payable by him and his estimated requirements for domestic purposes, into a storage cistern erected in or on the building or land, of a capacity not less than such amount and of a prescribed pattern and at an altitude not exceeding the maximum prescribed for the same.

(2) The word "prescribed" in Sub-section (1) means prescribed by rule u/s 235.

3. It seems to us clear that the rights of owners or occupiers entitled to a house connexion under Clause (b) are governed by Clause (c). Rule 3 of the rules framed by the defendant Board occurs in Section 4 of Ch. 5 and is under the heading "Preliminary," while Rule 10 is to be found under the heading "Private supply Statutory." Rule 3 is as follows:

The pressure at which water shall be laid on shall be a pressure of 200 feet at the engine house, and such pressure shall be maintained between the hours of 6 to 10 A.M. and 2 to 6 P.M.

4. The relevant portion of Rule 10 runs as under:

The amount of water which the Board is required to deliver into a storage cistern for the purpose of compliance with Section 228 1)(c) of the Act shall be... For a building or land assessed to a water-tax of Rs. 18 or more per annum...100 gallons...

5. It seems to us clear that the relevant rule for the plaintiff is Rule 10 and not Rule 3. But even if Rule 3 applied, what the Board is required to do is to lay on water at a pressure of 200 feet at the engine house and to maintain such pressure between the hours of 6 to 10 A.M. and 2 to 6 P.M. and not to guarantee or maintain a supply of water in the taps in

private houses between the hours mentioned in the rule. The plaintiff''s reliance on this rule is therefore not justified. Further, there is no allegation in the plaint as to the pressure at which the defendant Board laid on water during the period in question. It is common ground that the plaintiff has got no storage cistern as required by Section 228(1)(c) and Rule 10, quoted, above. The Court below was therefore right in holding that the suit was misconceived and that the basis for the claim put forward by the plaintiff was wrong. For the reasons given above, we dismiss this application for revision with costs.